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PREAMBLE AND RESOLUTIONS RELATING TO THE
NAVIGATION OF THE OHIO RIVER.

1 WHEREAS, by an act of the General Assembly of Virginia,
2 passed on the eighteenth day of December, in the year one
3 thousand seven hundred and eighty-nine, preparatory to the
4 erection of the District of Kentucky, then within the jurisdic-
5 tion of the State of Virginia, into an independent State of
6 the United States, it was, among other things, enacted, that
7 "the use and navigation of the Ohio river, so far as the terri-
8 tory of Kentucky or of Virginia lies thereon, shall be free
9 and common to the citizens of the United States;" which was
10 confirmed by another act of the said General Assembly, pass-
11 ed on the the thirteenth day of January, in the year one thous-
12 eight hundred, after the erection of the State of Kentucky;
13 whereby the State of Virginia relinquished to the United
14 States, any right she may have had to the exclusive navigation
15 of so much of the said river, as previously to the cession of
16 the Northwest Territory and the erection of the State of Ken-
17 tucky, was entirely within her territory and jurisdiction:

18 And whereas, the said river is a navigable highway of com-
19 merce between different States of the Union, and the Con-

gress of the United States has, from the earliest period, in the administration of its power to regulate commerce among the several States, claimed and exercised the right to regulate the navigation of the said river to the exclusion of the States binding thereon, and has moreover derived a considerable revenue from the enrollment and licensing of vessels navigating the same, and has established ports of entry at its head and other places thereon :

And whereas, it is the duty, as it is the right of Congress, and in accordance with its long established policy to promote and facilitate commerce between the several States, by the improvement of navigable rivers constituting its immediate channels ; and this duty in reference to the Ohio river, has been repeatedly acknowledged by the passage and execution from time to time, of laws having in view the partial improvement thereof :

And whereas, the war prosecuted for the suppression of the existing rebellion, and particularly, some of its more recent events have forcibly demonstrated, that the safety in time of war and insurrection of several of the States, especially of those binding on the said river, imperatively demands that the navigation thereof should be so improved and maintained as to place and keep it, at all times, in a condition to permit the

43 free passage throughout its whole course of armed vessels, and
44 the easy transportation of troops and munitions of war from
45 point to point on its banks and between distant sections of
46 the Union, without which the United States cannot adequately
47 redeem their constitutional pledge to protect each State against
48 invasion and domestic violence:

49 And whereas, this Legislature is informed that Congress, at
50 its approaching session, will be again urged to appropriate the
51 extraordinary sum of seventeen millions of dollars to the im-
52 provement of the Illinois and New York canals, each lying
53 wholly within the bounds of a single State, and neither of
54 them constituting by itself a channel of commerce between
55 different States, on the alledged ground of the necessity of
56 such improvement in time of war or insurrection, and particu-
57 larly in time of war with a foreign power with whom we are
58 now at peace:

59 And whereas, the improvement of the said canals as propo-
60 sed, would, in the absence of the thorough and permanent
61 improvement of the Ohio river, tend to divert from this and
62 other States a large portion of the commerce and transporta-
63 tion they now enjoy, and to deprive them of advantages they
64 might otherwise derive from the projected railroad to the Pa-
65 cific Ocean: Therefore,

Be it resolved by the Legislature of West Virginia:

66 1. The Senators and Representatives of this State, in Con-
67 gress, are earnestly requested to endeavor to obtain from that
67 body, the early passage of an act providing for the adequate
68 and permanent improvement of the navigation of the Ohio
69 river, with an appropriation of funds sufficient for the pur-
70 pose.

71 2. The Legislature of all other States interested are re-
72 quested to co-operate in effecting the object indicated in the
73 foregoing resolution.

74 3. The Governor is requested to forward a copy of this
75 preamble and resolutions to the executives of each of the
76 States binding on the Ohio river, and of such other States as
77 are more immediately interested in the navigation thereof,
78 with a request to lay the same before their respective Legisla-
79 tures.

House Joint Resolution No.

1 WHEREAS, A Board of Trade was organized on the
2 26th day of August, 1863, the regulations of which re-
3 quires every merchant or citizen who may desire to
4 have shipped to his address, any goods or merchandise
5 on or south of the Baltimore and Ohio Railroad, west
6 of Piedmont, and on or south of the Northwestern Vir-
7 ginia Railroad and elsewhere throughout West Virginia,
8 before purchasing the same to offer an invoice of such
9 articles as the said party shall propose, to purchase and
10 have shipped to the Board of Trade nearest his shipping
11 point, and endorse the same before said board under
12 oath: And whereas, the same is required to be repeat-
13 ed from time to time for every package, that he (the
14 said party,) may desire to have forwarded, therefore,

15 Résolved by the Legislature of West Virginia, That
16 a committee of conference, consisting of two members
17 from the House and one from the Senate, be appointed
18 to confer with the Governor to devise means by which
19 strictly loyal citizens may procure permits for the ship-
20 ment of goods not contraband, and to the value of—
21 dollars, by procuring the usual permit of the officer of
22 customs at the time and place of making such purchases.

**A SUBSTITUTE FOR SENATE BILL NO. 5, "A BILL
RELATING TO TOWNSHIPS AND TOWNSHIP OF-
FICES.**

[This substitute, taking for its basis Senate Bill No. 5, incorporates, with some modifications, the principal provisions of that bill, those of other Senate Bills relating to townships, and of House Bill No. 26, together with some additional sections; thus reducing into one bill the township bills pending in both Houses.]

Be it enacted by the Legislature of West Virginia:

1 1. Each township is a body corporate, and may sue and be
2 sued by its corporate name before any court or justice before
3 whom a person may sue or be sued under similar circumstan-
4 ces. It shall have power to purchase, to receive grants, devi-
5 ces, bequests and conveyances of, and to hold real estate for
6 the public use of its inhabitants, and to grant, convey and dis-
7 pose of the same; and to make all contracts and agreements
8 that may be necessary and convenient in the proper exercise
9 of its corporate and administrative powers. Every grant, de-
10 vice or conveyance of land within its limits, made in any man-
11 ner for the use or benefit of its inhabitants, shall have the
12 same effect as if made to it by its corporate name.

13 2. The voters of each township may, at any legal meeting
14 where the same is in order, make all necessary and proper by-
15 laws and orders, not contrary to law, for the government of
16 their meetings, and for the regulation of the affairs of their
17 township committed to their administration, subject to such

18 rules and limitations as may be prescribed by law ; and may,
19 in like manner, impose suitable penalties for the breach thereof,
20 not exceeding, unless specially authorized, ten dollars in any
21 one case, and sue for and recover the same before any court or
22 justice having jurisdiction. But no such by-law or order hav-
23 ing a future or continuous operation, shall take effect until ten
24 days after copies thereof have been posted at three of the
25 most public places in the township. By-laws and orders so
26 made and published, shall be binding on all persons coming into
27 the township, or owning property therein to which such by-law
28 or order applies, as well as on the inhabitants thereof, and shall
29 remain in force until altered or repealed.

30 3. If any township shall omit to hold its annual meeting
31 and election at the time fixed by law, it shall be lawful for any
32 five freeholders thereof, to appoint another day for holding
33 such meeting and election, by posting notices of the time,
34 place, and object thereof, at three of the most public places in
35 such township, at least ten, and not more than twenty days
36 before the day so appointed. The voters of the township who
37 assemble pursuant to such appointment, shall have, and may
38 receive, all the powers they would have had, and might have
39 exercised on the day fixed by law for holding such meeting and
40 election.

41 4. When a township possessed of real estate shall be divi-
42 ded into two or more townships, the supervisors of the several

43 townships constituted by such division, shall meet as soon as
44 may be after the first towhship meetings subsequently held in
45 such township ; and when so met, shall have power to make
46 such agreement concerning the disposition to be made of such
47 township property, and the apportionment of the proceeds as
48 shall be equitable, and to take all measures and execute all
49 conveyances, which may be necessary to carry such agreement
50 into effect.

51 5. When any such township shall be altered in its limits by
52 the annexing of a part of its territory to another township or
53 townships, the supervisors of the township from which territo-
54 ry shall be taken, and of the township or townships to which
55 the same shall be annexed, shall, as soon as may be after such
56 alteration, meet for the purpose, and possess the powers provi-
57 ded in the last preceding section. But the provisions thereof
58 and of this section, shall not apply to any cemetery or burial
59 ground, the title to which is vested in the township ; but the
60 same shall belong to the township in which it may be situated,
61 after a division shall have been made.

62 6. When a township possessed of, or entitled to money,
63 rights, credits, or other personal estate, shall be so divided or
64 altered, such personal estate shall be apportioned equitably be-
65 tween the townships interested therein, by the supervisors of
66 such townships, according to the amount of taxable property
67 in the townships divided or altered, as the same existed imme-

68 diately before such division or alteration, to be ascertained by
69 the last assessment list of such township; and the supervisors
70 shall meet for the purpose aforesaid, as soon as convenient after
71 the first township meeting subsequently held in such townships.
72 Debts owing by a township so subdivided, or altered, shall be
73 apportioned in the same manner as the personal property of
74 such township; and each township shall thereafter be charged
75 with its share of such debts, according to such apportionment.

76 7. Whenever a meeting of the supervisors of two or more
77 townships shall be required in order to carry into effect the
78 provisions of the three last preceding sections, such meeting
79 may be called by either of the said supervisors; but the super-
80 visors calling the same, shall give at least five days notice to
81 each of the other supervisors of the time and place of such
82 meeting.

83 8. At the first, and at every annual township election, there
84 shall be elected, by the voters of each township, in such man-
85 ner as may be prescribed by law, in addition to the officers
86 mentioned in the second section of the seventh article of the
87 Constitution, two inspectors of elections, who, together with
88 the Supervisor of their township, shall superintend and con-
89 duct, under such regulations as are or may be prescribed by
90 law, the next annual township election, and all intermediate
91 general and special elections held in their township. The
92 voters of each township shall, at the same times, and whenever

93 a vacancy is required to be filled, elect a collector, whose
94 powers, duties and compensation shall be such as are herein,
95 or may be hereafter, prescribed by law. No person shall be
96 eligible to office in any township who is not at the time of
97 election a qualified voter thereof.

98 9. The Supervisor of each township shall be the chief execu-
99 tive officer thereof, and shall have the superintendence of all
100 the affairs and property of his township, and shall see that all
101 laws, ordinances, by-laws and orders made for the govern-
102 ment thereof are duly and promptly executed by the proper
103 officers. In case of repeated or continued neglect of duty,
104 or misconduct in office, by any township officer, he shall re-
105 port the facts of the case to the Board of Supervisors of his
106 county, if such board have power to remove such officer, and
107 if not, to the next annual or special meeting of the voters of
108 his township. He shall preside at all township meetings and
109 elections held within his township, and preserve order there-
110 at, and do all such other acts and things pertaining to his
111 office, as are, or may be, prescribed by law. For every day
112 on which he shall attend an annual, adjourned or special
113 township meeting, he shall be entitled to the sum of one dol-
114 lar, to be paid from the township treasury.

115 10. The clerk of each township shall have the care and
116 custody of all the books and records thereof, and of all papers
117 appertaining to, or ordered to be deposited in his office, which

118 he shall properly file and endorse. Copies of all such papers
119 and records, and transcripts from the books of his office and
120 from the township journal, certified by him to be true copies
121 or transcripts, shall have the same effect as evidence in any
122 court, or before any justice, as if the originals had been pro-
123 duced; and for making such copies and transcripts, he shall
124 be paid by the person requiring them, such fees as are, or
125 may be, allowed by law to other officers for similar services.
156 He shall attend all meetings of the voters of his township,
127 and shall keep a journal of their proceedings, entering there-
128 in at length every by-law and order passed or adopted, which
129 journal he shall produce at every such meeting, and read
130 therefrom any entry therein, the reading of which is called
131 for by any voter present, seconded by five others. Before
132 entering on the discharge of the duties of his office, he shall
133 give bond, with security payable to his township, in the pen-
134 alty of one thousand dollars, or such sum as may be fixed by
135 a majority of the voters of his township voting on the subject
136 at the annual meeting next preceding the commencement of
137 his term of service, to be approved by the supervisor and col-
138 lector of his township, (which approval they shall endorse on
139 the bond) conditioned as required by the Constitution; which
140 bond shall remain in the care and custody of such supervisor.
141 In addition to all fees to which he is, or may be entitled by
142 law, he shall receive for his public services such sum, not less

143 than fifty nor more than three hundred dollars per year, as
144 may be from time to time fixed by a majority of the voters of
145 his township voting thereon at any annual meeting. He shall
146 keep an office at some convenient place within his township,
147 the rent whereof, if any, and the cost of all necessary books,
148 stationery, and other suitable conveniences, shall be audited
149 by the township committee, and paid from the township
150 treasury.

151 11. The clerk of each township shall keep all the accounts
152 thereof in a suitable book or books, on which he shall charge
153 the sheriff, or other collector of taxes of his county, with the
154 amount of the taxes directed by law, or the order of an an-
155 nual meeting of the voters thereof to be levied for the use of
156 his township, and of all demands placed in the hands of such
157 sheriff or collector for collection for account thereof, and
158 credit such officer with the amount of the township collector's
159 receipts returned by him, and such allowances as may be
160 made him by the proper authority for delinquents, or other
161 cause. The clerk shall also on the said book or books charge
162 the collector of his township with the amount of all claims,
163 demands and securities placed in his hands for collection, for
164 account of his township, and with the amount of the sheriff's
165 and other receipts, issued by the collector and returned to
166 the clerk, and of all other payments to such collector for ac-
167 count of the township which shall come to the knowledge of

168 the clerk, and credit the collector with the amount of all or-
169 ders drawn upon him as hereinafter provided.

170 12. The collector of each township, before entering on the
171 discharge of the duties of his office, shall give bond, with se-
172 curity, to be approved by the supervisor and clerk of his
173 township, (who shall endorse their approval thereon) in the
174 penalty of two thousand five hundred dollars, or such other
175 sum as may be fixed by a majority of the voters of his town-
176 ship, voting on the subject at the annual meeting next prece-
177 ding the commencement of his term of service. Such bond
178 shall be made payable to his township, and conditioned as di-
179 rected by the constitution; and when duly executed and ap-
180 proved, shall be delivered to the said supervisor in whose care
181 and custody it shall remain. The collector shall have the
182 care and custody of all obligations and other securities for
183 the payment of money, and of all money belonging to his
184 township, and shall safely keep the same, and deliver or pay
185 out none except to the orders of the supervisor of his town-
186 ship, countersigned by the clerk thereof. As compensation
187 for his services, he shall be entitled to retain five dollars in
188 the hundred of all receipts of money for the use of his town-
189 ship, except receipts from the sheriff or other collector of
190 taxes, of which he shall retain only three dollars in the hun-
191 dred.

192 13. The collector shall demand, collect, and receive all

HOUSE BILL No. 1.

AN ACT IN RELATION TO THE POWERS AND DUTIES OF THE RECORDER.

1 1. *Be it enacted by the Legislature of West Virginia*, That
2 the Recorder of every County shall have the same power, and
3 perform the same duties, in relation to receiving acknowledg-
4 ment or proof of, admitting to record, recording, listing and
5 certifying deeds, contracts, powers of attorney, wills, invento-
6 ries and other writings; and docketing judgments and decrees,
7 and bonds and recognizances having the force of judgments,
8 and recording *lis pendens* and attachments, and the issuing of
9 marriage licenses, as the Clerk of the County Court of such
10 County had, or was liable to perform under the laws of Vir-
11 ginia in force within the limits of this State, on the nineteenth
12 day of June, eighteen hundred and sixty-three; and shall
13 have the like fees for his services as the said Clerk was entitled
14 to under said laws, to be collected and accounted for in the
15 same manner.

16 2. The acts and certificates of the said Recorder shall have
17 the same effect as the acts and certificates of the said Clerk
18 would have had under the said laws.

19 3. This Act shall be in force from its passage.

HOUSE BILL No. 2.

AN ACT CONCERNING OATHS AND AFFIRMATIONS.

1 1. Be it enacted by the Legislature of West Vir-
2 ginia as follows : Every person elected or appointed
3 to any office or trust, civil or military, shall before pro-
4 ceeding to exercise the authority or discharge the
5 duties of the same, make oath that he will support the
6 Constitution of the United States, and the Constitu-
7 tion of this State.

8 2. He shall also at the same time take an oath that
9 he will faithfully perform the duties of his office, to
10 the best of his skill and judgment.

11 3. The first Section shall not apply to the case of
12 a person residing in another State or country who is
13 appointed a Commissioner by the Governor, or desig-
14 nated, pursuant to law, for any agency or service to be
15 performed out of this State.

16 4. The oaths to be taken as aforesaid may be ad-
17 ministered by a justice, notary public, recorder or
18 judge. And any person residing in another State or
19 country, designated for any agency or service to be
20 performed out of this State, or appointed a commission-

21 er, may take the oath before a justice, notary or judge
22 of the State or country in which he resides.

23 5. If any person elected or appointed to any office
24 or trust, civil or military, shall exercise any authority,
25 or enter upon the discharge of any duty, pertaining
26 thereto, before taking the proper oath or oaths, he
27 shall forfeit not less than one hundred or more than
28 one thousand dollars. But the officers acting within
29 the limits of this State, at the time the amended
30 Constitution thereof went into operation, may con-
31 tinue to exercise the powers and perform the duties of
32 their respective offices, until the officers elected or ap-
33 pointed under the said Constitution for the discharge
34 of similar duties be qualified, without being liable to
35 any forfeiture under this Act.

36 6. The oaths to be taken as aforesaid shall be certi-
37 fied by the persons who administered the same, and
38 the certificates be disposed of as follows ;

39 The certificates of the oaths taken by the Governor,
40 Secretary of the State, Treasurer, Auditor, Attorney
41 General and Adjutant General, and of the Clerks em-
42 ployed by them, and of all other civil officers except
43 those afterwards mentioned in this Section, shall be
44 filed in the office of the Secretary of the State.

45 The certificates of the oaths taken by Senators and
46 Delegates shall be filed with the Clerks of those
47 Branches respectively ; or the oaths shall be taken in
48 presence of their respective branches, and the fact be
49 noted on the Journal.

50 The certificate of the oaths taken by a Judge of
51 Supreme Court of Appeals shall be delivered to and
52 recorded by the Clerk of that Court.

53 The certificate of the oaths taken by a Judge of a
54 Circuit shall be delivered to and recorded by the Clerk
55 of the first Court to be held by him.

56 The certificate of the oaths taken by the Clerk of
57 any Court shall be recorded by such Clerk.

58 The certificates of the oaths taken by county, town-
59 ship and municipal officers shall be filed with the
60 Recorder of the county.

61 The certificate of the oaths taken by any military
62 officer above the rank of Colonel, shall be filed with
63 the Adjutant General; and of any other military offi-
64 cer shall be recorded in the order book of the comman-
65 dant of the Regiment to which such person belongs or
66 is attached.

67 7. Under this Act, and in all judicial proceedings,
68 a solemn affirmation shall have, in all respects, the
69 same effect as an oath. And in the construction of

70 statutes, records, certificates and writings, the word
71 *oath* shall be deemed to include an *affirmation*, and the
72 word *swear* to be complied with, if the person referred
73 to makes solemn affirmation; unless such construction
74 be manifestly inconsistent with the intention.

75 8. Chapter, thirteenth of the Code of Virginia,
76 second edition and all statutory provisions incorpor-
77 ated in said Chapter, are hereby repealed.

78 9. This Act shall be in force from its passage.

HOUSE BILL No. 3.

AN ACT RELATING TO OFFICIAL BONDS.

- 1 1. *Be it enacted by the Legislature of West Virginia, as*
2 follows: Every bond required by law to be approved by any
3 Court, Board or officer, shall, unless otherwise provided, be
4 made payable to the State of West Virginia, with one or more
5 sureties deemed sufficient by such Court, Board or officer, and
6 be proved or acknowledged before such Court, Board or officer.
- 7 2. Upon any bond payable as aforesaid, suits may be pros-
8 ecuted, from time to time, in the name of the State, for the
9 benefit thereof, or of any county, township or person injured
10 by a breach of the condition, until damages be recovered equal
11 to the penalty.
- 12 3. The declaration in such suit shall show for whose benefit
13 it is prosecuted; and the Court may, in its discretion, require
14 security for the costs, from any party, except the State, for
15 whose benefit such a suit shall be prosecuted.
- 16 4. Any bond to be given upon an injunction, appeal, writ of
17 error, supersedeas, or other proceeding in a civil suit, may be
18 made payable to the party entitled to the benefit thereof; and
19 any bond to be given by any officer of a municipal corporation,
20 or which may lawfully be prescribed by the ordinances of such
21 corporation, may be made payable to the said municipal cor-
22 poration.
- 23 5. When a person undertaking any office is required by law

24 to give bond, the condition, unless otherwise provided, shall
25 be for the faithful discharge by him of the duties of his office.

26 6. When a person elected or appointed to any office is re-
27 quired by law to give bond, if he fail to do so within the time
28 prescribed by law, the office shall be deemed vacant; and if
29 he act in such office before giving bond as required by law, he
30 shall forfeit not less than one hundred nor more than one
31 thousand dollars.

32 7. The Sheriff shall be allowed one hundred and twenty
33 days after his election in which to qualify and give the bonds
34 of his office; and other officers shall be allowed sixty days, un-
35 less otherwise provided, after their election or appointment.

36 8. The Sheriff of every county shall give bond to be ap-
37 proved by the Circuit Court of the county, or the Judge
38 thereof in vacation, in such penalty, not less than thirty thous-
39 and dollars, nor more than ninety thousand dollars, as the said
40 Court or Judge shall deem sufficient.

41 9. The Clerk of the Supreme Court of Appeals, unless he
42 be clerk pro tempore, shall give bond to be approved by the
43 Court, in such penalty, not less than three thousand nor more
44 than ten thousand dollars, as the Court shall deem sufficient;
45 and the Court may prescribe the time within which such bond
46 shall be given.

47 10. Every Clerk of a Circuit Court, unless he be Clerk pro
48 tempore, shall give bond to be approved by the Court, or the
49 Judge thereof in vacation, in such penalty, not less than three

50 thousand nor more than ten thousand dollars, as the Court or
51 Judge shall deem sufficient.

52 11. The Recorder of every county shall give bond, to be
53 approved by the Circuit Court for such county or the Judge
54 thereof in vacation, in such penalty, not less than
55 nor more than as the Court or Judge
56 shall deem sufficient.

57 12. Every notary public shall give bond, to be approved by
59 the Circuit Court for his county or the Judge thereof in vaca-
59 tion, in such penalty, not less than two hundred and fifty nor
60 more than one thousand dollars, as the Court or Judge shall
61 deem sufficient.

62 13. The Secretary of the State, Auditor, Treasurer and
63 Public Printer shall each give bond, to be approved by the
64 Governor. The bond of the Secretary of the State shall be
65 in the penalty of five thousand dollars, that of the Auditor
66 twenty thousand, of the Treasurer fifty thousand; and of the
67 Public Printer five thousand dollars.

68 14. Every bond required by law to be approved by the
69 Governor, shall be first submitted to the Attorney General for
70 examination; and if he be of opinion that it is in proper form,
71 and legally executed and stamped, he shall make an endorse-
72 ment thereon to that effect.

73 15. The bonds of the Treasurer, Auditor, and Public Prin-
74 ter shall be filed in the the office of the Secretary of the State;
75 and the bond of the Secretary of the State in the office of the
76 Auditor. The bond of the Clerk of the Supreme Court of

77 Appeals shall be filed in the office of the Clerk of the Circuit
78 Court for the county in which the Supreme Court of Appeals
79 may sit. The bonds to be approved by the Circuit Court for
80 any county, or the Judge thereof in vacation, shall be filed in
81 the office of the Clerk of such Circuit Court; except that, the
82 bond of the Clerk of the Circuit Court shall be filed in the office
83 of the Recorder of the county.

84 16. Any officer giving bond who shall fail to file the same
85 as aforesaid shall forfeit not less than one hundred nor more
86 than one thousand dollars.

87 17. The Clerk of every Circuit Court and the Recorder of
88 every county, shall, within two months after any bond is filed
89 in their offices as aforesaid, transmit a copy thereof to the
90 Auditor. If any Clerk or Recorder fail so to do, he shall for-
91 feit one hundred dollars.

92 18. The person in whose office any bond is filed as aforesaid
93 shall cause the same to be correctly recorded, upon the en-
94 dorsement thereon of its having been approved according to
95 law. And such record, or a copy thereof certified by the
96 person whose office the bond is required by law to be filed,
97 shall be *prima facie* evidence of the execution and contents of
99 such bond. But any Court of Record, for good cause shewn,
100 may require the production of the original bond.

101 19. The Court, Board or officer, by whom any bond is re-
102 quired by law to be approved, may at any time require from
103 the officer by whom such bond was given, a new bond to be

104 approved by them. And if the officer so required to give a
105 new bond, being notified of the requirement, fail to comply
106 therewith, within the time specified in such notice, his office
107 shall be deemed vacant. But for cause shewn, the time for
108 giving such new bond may be extended, or the requirement
109 withdrawn.

110 20. When a surety, or his personal representative, of any
111 officer required by law to give an official bond, shall petition
112 the Court, Board or officer by whom such bond was approv-
113 ed, to be relieved from the suretyship, such Court, Board or
114 officer shall, on proof of reasonable notice of the intended
115 motion, require a new bond to be given. And if any officer
116 who has given an official bond, being so required, shall fail to
117 give a new bond within the time required, his office shall be
118 deemed vacant. But for cause shewn, the time for giving
119 such new bond may be extended.

120 21. Upon new bond being given and approved according to
121 law, in the cases specified in the two last Sections, the sure-
122 ties in the former bond, and their estates, shall be discharged
123 from all liability for any breach of duty committed by such
124 officer after that time.

125 22. The 24th Section of the 8th Chapter; the 8th, 9th,
126 10th and 11th Sections of the 13th Chapter; the 6th, 7th,
127 8th and 9th Sections of the 19th Chapter; the 1st, 2nd and
128 3d Sections of the 45th Chapter; the 2d Section of the 49th
129 Chapter, and the 7th Section of the 163d Chapter of the

130 Code of Virginia, second edition ; and the several statutory
131 provisions incorporated in those Sections ; and also so much of
132 the first Section of the 120th Chapter as relates to the bonds
133 of notaries public, are hereby repealed.

134 23. This Act shall be in force from its passage.

HOUSE BILL No. 4.

A BILL IN RELATION TO THE TAXES FOR THE YEAR 1863 ASSESSED WITHIN THE COUNTIES UNDER THE LAWS OF THE STATE OF VIRGINIA.

1 1. *Be it enacted by the Legislature of West Virginia, That*
2 every Commissioner of the Revenue for any county now in-
3 cluded within this State, shall within fifteen days after the pas-
4 sage of this Act, deliver one copy of the land book and one of
5 the personal property book made by him for the year eighteen
6 hundred and sixty-three, to the Sheriff elected for such county
7 under the Constitution of this State and the Ordinances of the
8 late Constitutional Convention; and such Sheriff shall proceed
9 to collect, account for and pay over according to law, the taxes
10 assessed in the said books.

11 2. No Sheriff or Collector of taxes elected or appointed for
12 any county of this State under the laws of the State of Vir-
13 ginia shall have authority to collect the taxes assessed in the
14 land or personal property books for the year eighteen hundred
15 and sixty-three, if a Sheriff shall have been elected for such
16 county under the Constitution of this State and the Ordinances
17 aforesaid.

18 3. This Act shall be in force from its passage.

HOUSE BILL No. 5.

A BILL TO PROVIDE FOR THE DIVISION INTO TOWNSHIPS OF THE SEVERAL COUNTIES OF THE STATE.

1 1. *Be it enacted by the Legislature of West Virginia,* The
2 persons named in the schedule of this Act, being three for
3 each county of the State, are hereby appointed commissioners
4 to divide their respective counties into townships, in accord-
5 ance with the provisions of the first section of the seventh arti-
6 cle of the Constitution ; and shall, as soon as practicable, pro-
7 ceed to make such division. Where a city or incorporated
8 town necessarily constitutes part of two or more townships,
9 and is divided into wards, the boundaries of such townships
10 within such city or town, shall, if practicable, be so located that
11 parts of the same ward are not thrown into different townships.

12 2. In case of the refusal or inability to act of one or more
13 of the commissioners hereby appointed, the remaining commis-
14 sioner or commissioners for the same county shall appoint an-
15 other citizen or citizens thereof to fill the vacancy or vacancies,
16 whose duties and compensation shall be the same as if directly
17 appointed by this Act.

18 3. The commissioners for each county shall employ a com-
19 petent Surveyor, who shall attend them when required, and
21 shall run and mark such lines as they may designate. He
22 shall make and return to the said Commissioners two fair maps
23 or plats of his county, projected on a scale of two miles to the

24 inch, on which the external boundaries thereof and the division
25 lines of the townships therein, shall be plainly delineated, the
26 area of each stated, and each designated by a name to be chosen
27 by a majority of the acting Commissioners, together with
29 two written descriptions of the specific boundaries of each.

30 4. For their services under this Act, the acting Commis-
31 sioners and Surveyor shall be allowed the sum of three dollars
32 each for every day, during which they are engaged in the per-
33 formance of the duties hereby prescribed, including the time
34 necessarily employed by the Surveyor in making the required
35 maps or plats and descriptions. The Surveyor shall also be
36 allowed the amount expended by him for chain carriers and
37 markers, if any are necessarily employed, but shall be entitled
38 to no other fees or compensation than are allowed by this sec-
39 tion. The claims of the Commissioners and Surveyor shall be
40 audited by the Board of Supervisors of their county and paid
41 from the county treasury.

42 5. The Commissioners for each county shall forward a re-
43 port of their proceedings under this Act, including an approx-
44 imate estimate of the white population of each township accord-
45 ing to the late United States census, and a statement of the
46 whole cost incurred together with one of the said maps or plats
47 and descriptions to the Secretary of the State, who shall de-
48 posit the same among the archives thereof. They shall also
49 deposit with the Recorder of their county, to be by him care-
50 fully preserved, a duplicate of their report, including the said

51 estimate and statement, and also the other map or plat and
 52 description.

53 6. This Act shall be in force from its passage.

SCHEDULE.

Commissioners for the County of

Barbour, ...
 Boone, ...
 Braxton, ...
 Brooke, ...
 Cabell, ...
 Calhoun, ...
 Clay, ...
 Doddridge, ...
 Fayette, ...
 Gilmer, ...
 Greenbrier, ...
 Hancock, ...
 Hampshire, ...
 Hardy, ...
 Harrison, ...
 Jackson, ...
 Kanawha, ...
 Lewis, ...
 Logan, ...
 Marion, ...
 Marshall, ...
 Mason, ...

McDowell,.....
Mercer,.....
Monongalia.....
Monroe,.....
Morgan,.....
Nicholas,.....
Ohio.....
Pendleton, ...
Pleasants,.....
Pocahontas,.....
Preston,.....
Putnam,.....
Raliegh,.....
Randolph,.....
Ritchie,.....
Roane,.....
Taylor,.....
Tucker,.....
Tyler, ...
Upshur,.....
Wayne,.....
Wetzel,.....
Webster, ...
Wirt,.....
Wood,.....
Wyoming,.....

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193 moneys and securities for the payment of money, and all
 194 penalties due to his township; and may sue for and recover
 195 the same in its corporate name, or in his own name as col-
 196 lector thereof, but for its use, if the case so require. He
 197 shall, at least once in every quarter of a year, counting from
 198 the twentieth day of June, demand and receive from the
 199 sheriff or other collector, the taxes levied on the property of
 200 his township for the use thereof, the proceeds which shall then
 201 be collected, of all such taxes, and of all penalties and other
 202 demands and claims thereof previously placed in the hands of
 203 such officer for collection. To every person from whom he
 204 shall receive any money for the use of his township, he shall
 205 give duplicate receipts, numbered in rotation, one of which
 206 such person shall hand to the clerk to be filed and preserved
 207 in his office; and the clerk shall write upon the other the
 208 words, "duplicate returned," and sign his name thereto, with-
 209 out which the receipt retained by such person shall not be ev-
 210 idence of payment as against the township. The receipts of
 211 the collector shall be in the following form, or to the same
 212 effect:

213 No.—— Township of——in the County of——

214 [Date]———

215 Received from A. B., for the use of the said township,
 216 —— dollars and —— cents, for which he is entitled to
 217 credit on the books of the clerk.

218 \$——

C. D., Supervisor.

219 14. Every person having a demand or claim against a
220 township, shall file with the clerk thereof, at least ten days
221 before the next annual meeting, an account or statement in
222 writing, fully setting forth the items thereof, or, if the same
223 is for services for which no rate of compensation is fixed by
224 law or township order, the number of days occupied in such
225 service. All such demands and claims shall be accurately
226 listed and numbered by the clerk, who shall number with cor-
227 responding numbers the accounts or statements so filed with
228 him, and shall also prepare a list of all demands or claims
229 not then payable, but which will be payable during the coming
230 year. On the day of the annual meeting he shall lay such
231 lists, accounts, or statements, and vouchers, with any informa-
232 tion relating thereto in his possession, before the township
233 committee hereinafter provided for, who shall proceed to com-
234 pare each account or statement with the vouchers therewith
235 filed, and, so far as may be necessary, with the books and pa-
236 pers in charge of the clerk, and to allow the whole or such
237 part of each demand or claim as they may think just and
238 right, or to disallow the whole. For so much of each demand
239 or claim so allowed as is then properly payable, the clerk shall,
240 within ten days, prepare an order on the township collector,
241 payable to the order of the person entitled thereto, or his
242 assigns, which he shall countersign and present to the super-
243 visor, who shall attend at the office of the clerk on the tenth

244 day, for the purpose, and sign the same, if it corresponds with
 245 the allowance made by the township committee ; but orders
 246 for demands or claims subsequently payable, shall be prepared
 247 and signed when they are payable. All such orders shall,
 248 at any time thereafter, on proper application therefor, be de-
 249 livered by the clerk to the parties to whom the same are made
 250 payable on their signing suitable receipts for the amount of
 251 their respective demands or claims. Such orders shall be in
 252 the following form, or to the same effect :

253 No.—— Township of——in the county of——

254 [Date]——

255 The collector will pay to A. B., (or C. D., assignee of
 256 A. B.,) or order the sum of——dollars and——cents, in
 257 full of claim No.——, as allowed by the township committee
 258 at the annual meeting of 18—.

259 \$——

E. F., Collector.

260 And every such order, properly endorsed by the payee, shall
 261 be paid by the collector on presentation at a proper time and
 262 place, if there are funds in his hands applicable to the pur-
 263 pose.

264 15. Any person whose demand or claim against a township
 265 is disallowed in whole or in part by the township committee
 266 may again file the same, or his demand or claim for the part
 267 disallowed, with the clerk of such township, with such addi-
 268 tional vouchers and proofs as he may deem proper. The

269 clerk shall lay the same before the next township meeting,
270 whether special or annual, and the meeting, after examina-
271 tion and consideration, shall allow the demandant or claimant
272 such sum, or further sum, as they may think just and right,
273 to be paid by an order on the collector in the usual form, or
274 may refuse to make any allowance, or further allowance. If
275 the demandant or claimant be still dissatisfied, he may then,
276 but not previously, sue for the sum he demands or claims be-
277 fore any court or justice having jurisdiction. If the judg-
278 ment is against the township, the supervisor thereof, with the
276 assent of the clerk and collector, or either of them, may or-
280 der an appeal to be taken on behalf of the township; but no
281 appeal bond shall be required. If judgment on the appeal is
282 given against the township, the supervisor and clerk shall
283 forthwith issue to the appellant an order on the collector of
284 their township for the amount of the recovery.

285 16. It shall be the duty of the collector, to lay before the
286 township committee on the day of the annual meeting, a state-
287 ment, verified by his signature, of his receipts and expendi-
288 tures up to that time, designating each credit by the number
289 of the duplicate receipts given to the person who made the
290 payment, and each item of his expenditures, by the number
291 of the township order on which the same was paid, and show-
292 ing the balance due to the township remaining in his hands.
293 He shall also, at the end of the term for which he was elec-

294 ted, lay before the said committee a similar statement, and in
295 each case, also a statement of the obligations and other se-
296 cureties and property in his hands for safe keeping or collec-
397 tion.

298 17. At the opening of every annual meeting in each town-
299 ship, there shall be appointed by a majority of the voters
300 present and voting thereon, a committee of five voters, being
301 freeholders of the township, who shall be called the township
302 committee, and shall serve for one year, and shall have power
303 to fill any vacancies which may occur in their number, a ma-
304 jority of whom shall be a quorum. Immediately upon their
305 appointment, after discharging the duty required of them in
306 a previous section of this act, they shall proceed to ascertain
307 from the lists and account books of the clerk, the statements
308 of the collector, and any other sources of information accessi-
309 ble to them, what amount it will be necessary to levy on the
310 taxable property of the township to meet the necessary ex-
311 penditures of the coming fiscal year, including the balance of
312 all claims against their township over the money in or due to
313 its treasury applicable to their payment, then payable and
314 unpaid, the amount of claims and appropriations payable dur-
315 ing the next fiscal year, and the probable amount of the cur-
316 rent and contingent expenses of the same period, which esti-
317 mate they shall reduce to writing, distinguishing the different
318 classes of expenditure, and present to the annual meeting on

319 the same day, if practicable, and if not, then on the day to
320 which it shall be adjourned for the purpose. The meeting
321 shall thereupon proceed to consider the report of the commit-
322 tee, and may, if good reasons therefor appear, correct their
323 estimate, and by an order entered on their journal shall direct
324 an amount sufficient to cover the estimate so reported or cor-
325 rected, making due allowance for probable delinquencies and
326 expenses of collection, to be included in the next annual levy
327 on the taxable property of their township: a copy of which
328 order, the clerk, as soon as possible thereafter, shall cause to
329 be served upon the assessor of the county or district in which
330 such township is situated.

331 18. The township committee shall again assemble at the
332 clerk's office on the twentieth day of June in the same year,
333 and receive from the collector his report of his receipts and
334 expenditures since the annual meeting; and by comparison
335 with the account books of the clerk and otherwise, shall as-
336 certain the balance due the township by the collector, and
338 also the amount of commission which he is entitled to retain.
339 The outgoing clerk and collector and those who have been
340 elected their successors, shall attend at the same time and
341 place, and the latter shall produce certificates of their due
342 qualification, and thereupon the said committee, or a majori-
343 ty of them, shall, by an order in writing signed with their
344 names, direct the outgoing clerk to deliver to his successor all

345 the books, papers and other property appertaining to his office;
346 and by a similar order direct the outgoing collector to deliver
347 and pay over to his successor the obligations, securities and
348 other papers and property in his possession, the balance of
349 money due to the township remaining in his hands. If either
350 shall fail to comply promptly with such direction, he shall be
351 liable to a penalty of one hundred dollars, to be recovered by
352 suit on his official bond.

353 19. The voters of each township may, at any legal annual
354 meeting, or at a special meeting duly called for the purpose,
355 if the votes in favor of the proposition are two-thirds of the
356 whole number given, or equal in number to a majority of all
357 the registered voters of the township, in addition to all taxes
358 required by law to be levied on the property of their town-
359 ship, levy taxes on such property for the following purposes,
360 within the limits hereinafter specified.

361 For the better maintenance and improvement of the free
362 schools established by law within their township, not more
363 in any one year than five cents on every one hundred dol-
364 lars of the taxable value of such property, according to the
365 most recent legal assessment of the same.

366 For procuring the necessary land, and erecting school houses
367 and furnishing the same, not more in any one year than
368 five cents on every one hundred dollars of such value.

369 For the opening, repair and improvement of public roads and

370 the building and repair of bridges on the same, not more in
371 any one year than ten cents on every one hundred dollars
372 of such value.

373 For purchasing the necessary land, and erecting a township
374 hall for holding meetings and elections and the accommo-
275 dation of the township clerk and other officers, not more
276 in any one year than five cents on every one hundred dol-
277 lars of such value.

278 For purchasing the necessary land, and enclosing and embel-
379 lishing the same for a township cemetery or burial ground,
380 not more in any one year than five cents on every one hun-
381 dred dollars of such value.

382 But nothing in this section contained shall prevent the
383 township making contracts for any of the above purposes, if
384 the payments on account thereof are so arraigned, that the
385 annual appropriation required to meet the same, shall not ex-
386 ceed the amount by this section authorized to be raised by
387 taxation for such purpose in any one year.

HOUSE BILL No. 7.

A BILL CONCERNING THE HEMPFIELD RAILROAD COMPANY.

Whereas, by an act passed by the Legislature of Pennsylvania, approved on the 18th day of April, 1861, it is enacted as follows :

1 Sec. 1. That whenever any railroad, canal, turnpike, bridge
2 or plank road, of any corporation created by or under any law
3 of this State, shall be sold and conveyed under and by virtue
4 of any process or decree of any court of this State, or by the
5 Circuit Court of the United States, the person or persons for
6 or on whose account such railroad, canal, turnpike or plank
7 road may be purchased; shall be and they are hereby consti-
8 tuted a body politic and corporate, and shall be vested with all
9 the right, title, interest, property, possession, claim and de-
10 mand, in law and equity, if in, and to such railroad, canal,
11 turnpike, bridge or plank road, with its appurtenances, and with
12 all the rights, powers, immunities, privileges and franchises of
13 the corporation, as whose the same may have been so sold, and
14 which may have been granted to or conferred thereupon by
15 any act or acts of assembly whatsoever, in force at the time of
16 such sale and conveyance, and subject to all the restrictions
17 imposed upon such corporation by any such act or acts, except
18 so far as the same are modified hereby; and the persons for or
19 whose account any such railroad, canal, turnpike, bridge or on

20 plank road may have been purchased, shall meet, within thirty
21 days after the conveyance thereof shall be delivered, public
22 notice of the time and place of such meeting having been given
23 at least once a week, for two weeks, in at least one newspaper
24 published in the city or county in which such sale may have been
25 held, and organize said new corporation, by electing a Presi-
26 dent and board of six directors, (to continue in office until the
27 first Monday of May succeeding such meeting, when, and
28 annually thereafter, on the said day, a like election for a Pres-
29 ident and six directors shall be held, to serve for one year.) and
30 shall adopt a corporate name and common seal, determine the
31 amount of the capital stock thereof, and shall have power to
32 make and issue certificates therefor to the purchaser and pur-
33 chasers aforesaid, to the amount of their respective interests
34 therein in shares of fifty dollars each, and may then, or at any
35 time thereafter create and issue preferred stock to such an
36 amount and on such terms as they may deem necessary, and
37 from time to time to issue bonds, at a rate of interest not
38 exceeding seven per cent, to any amount not exceeding their
39 capital stock, and to secure the same by one or more mortgages
40 when the real and personal property, and corporate rights and
41 franchises, or either or any part or parts thereof.

42 Sec. 2. That it shall be the duty of such new corporation,
43 within one calendar month after its organization, to make a
44 certificate thereof, under its common seal, attested by the signa-
45 ture of its President, specifying the date of such organization,

46 the name so adopted, the amount of capital stock, and the
47 names of its President and Directors, and transmit the said
48 certificate to the Secretary of State at Harrisburg, to be filed
49 in his office, and there remain of record; and a certified copy
50 of such certificate so filed shall be evidence of the corporate
51 existence of said new corporation.

52 *Sec. 1. Be it therefore enacted by the Legislature of West*
53 *Virginia,* That the purchasers of that part of the property
54 now held by the Hempfield Railroad Company within this
55 State, under a decree of any court of this State, or of the
56 District Court of the United States, when they shall have
57 purchased that part of said railroad within the State of Penn-
58 sylvania, and shall have been organized and incorporated under
59 the above recited act of the Legislature of said State, shall
60 have and possess, in this State, all the rights, powers, immuni-
61 ties and franchises conferred by said act, for which purpose
62 alone the same is hereby adopted and enacted into a law of
63 this State.

64 *Sec. 2.* That it shall be the duty of the corporation, organ-
65 ized under the law of Pennsylvania aforesaid, to file in the
66 office of the Secretary of the State of West Virginia, a certi-
67 fied copy of the certificate, required by the second section
68 of said act to be filed in the office of the Secretary of the
69 Commonwealth of Pennsylvania, which shall also set forth the
70 date of the filing of said certificate, and shall be authenticated
71 by the attestation of said Secretary, and the seal of his

72 Department; and thereafter the said corporation shall be reor-
73 ganized and taken to be a body politic or corporation in this
74 State; and shall then possess, enjoy and exercise all the rights,
75 powers, immunities and franchises conferred by this act, and
76 by the laws of the State of Virginia relating to the Hempfield
77 Railroad Company; and a certified copy of the certificate filed
78 in the office of the Secretary of the State of West Virginia,
79 shall be evidence of the existence of said corporation in this
80 State.

81 Sec. 3. This act shall be in force from its passage.

HOUSE BILL No. 8.

A BILL RELATING TO EXEMPTIONS FROM MILITARY DUTY.

1 1. *Be it enacted by the Legislature of West Virginia, That*
2 the following persons shall be exempt from the performance of
3 all military duties whatever, to-wit: The Vice-President of
4 the United States, the officers, Judicial and Executive of the
5 Government of the United States, the members of both houses
6 of Congress and their respective officers, all custom house offi-
7 cers with their clerks, all post masters and post officers necessari-
8 ly employed in any post office, all mail contractors, all inspec-
9 tors of exports, the Secretary of the Commonwealth, the Judges
10 of the Court of Appeals and Circuit Courts, the Clerks of the
11 said Courts, and of the Circuit and Corporation Courts, Recor-
12 ders, Sheriffs and Sergeants of corporations, the Attorney Gen-
13 eral, the Treasurer, Auditor, all ministers of the Gospel licen-
14 sed to preach according to the rules of their sect. The enroll-
15 ing board shall in cases decide the number of persons necessa-
16 rily engaged in any post office.

17 2. The following persons shall be exempt from the perform-
18 ance of the ordinary duties of Militiamen, but shall be liable
19 to be drafted, and on the order of the Governor, to be detailed
20 for drill and active service in time of public danger or invasion,
21 to-wit: The officers of the several banks established by law
22 and their respective branches, all millers necessarily and per-

23 sonally employed in any grist mill, all ferrymen in like manner
24 employed at any ferry established by law, the general agent
25 and store keeper of the Penitentiary and his clerks, all toll
26 gatherers on any canal, river or turnpike company in the State,
27 the officers and members of all fire companies who are exempt
28 by the provisions of the fourth Section of Chapter fifty-five of
29 the Code of Virginia, the police in cities and towns, all school
30 commissioners, trustees of district free schools, and during the
31 sitting of the Court of Appeals, the tipstaff and crier thereof,
32 also every officer of the militia who may resign his commission
33 after serving seven years successively, and every non-commis-
34 sioned officer or member of a uniformed and armed volunteer
35 company, who shall have served in one or more such companies
36 for three successive years of which at least two shall have been
37 in such company.

38 3. The 2nd and 3rd Sections of Chapter 22 of the Code of
39 1860, are hereby repealed.

40 4. This Act shall be in force from and after its passage.

HOUSE BILL No. 9.

AN ACT TO AUTHORIZE THE HEIRS OF DAVID ALBRIGHT TO ESTABLISH A FERRY ACROSS CHEAT RIVER.

1 1. *Be it enacted by the Legislature of West Virginia,* That
2 it shall be lawful for the heirs of David Albright, deceased,
3 their heirs and assigns, to establish and keep a ferry from their
4 lands at or near the town of Albright, in Preston county,
5 across Cheat River to some convenient point on the opposite
6 shore, where a former ferry known as Snider's ferry, crossed
7 said river, and immediately below the site of the recent wire
8 suspension bridge, known as the "Cheat River Toll Bridge."

9 2. *Be it further enacted,* That the rates for transportation
10 across said river at said ferry shall be as follows, to-wit:

11 For every person on foot,.....	5 cents.
12 For every horse and rider,.....	10 "
13 For every wagon and one horse and driver, ..	20 "
14 For every wagon and two horses and driver,.....	25 "
15 And for each additional horse attached thereto,.....	5 "
16 For every buggy, wagon and one horse,.....	20 "
17 For every buggy or pleasure carriage & two horses,..	25 "
18 For every score of sheep or hogs,.....	10 "
19 For every head of cattle,.....	1½ "

20 Provided, that the Board of Supervisors of the county of Pres-
21 ton shall have power to alter or regulate the said rates from
22 time to time as they may deem proper.

23 3. This Act shall be in force from its passage.

HOUSE BILL No. 12.

A BILL TO FIX THE TERMS OF THE SEVERAL COURTS.

1 1. *Be it enacted by the Legislature of West Virginia,* Two
2 sessions of the Supreme Court of Appeals shall be held every
3 year, at the seat of Government, or such other place as may
4 be appointed for the purpose in conformity with the eleventh,
5 twelfth, and thirteenth sections of the one hundred and sixty-
6 first chapter of the Code of Virginia, second edition.

7 2. The said sessions shall begin on the second Thursday
8 of January and second Thursday of July respectively, and
9 continue till the business be dispatched. When the circum-
10 stances require it, the Governor may postpone the time for
11 holding any such session.

12 3. A Circuit Court shall be held in every county four times
13 a year, and the commencement of the said terms shall be as
14 follows:

15 I. In the First Circuit—For the county of Ohio, on the first

16 Tuesday of March, May, October, and December; For the
 17 county of Hancock, on the first Tuesday of April, June, Sep-
 18 tember and November; For the county of Brooke, on the
 19 second Tuesday of April, June, September and November:
 20 and for the county of Marshall, on the third Tuesday of
 21 April, June, September and November.

22 II. In the Second Circuit—For the county of Monongalia,
 23 on the ninth day of February, the ninth day of May, the
 24 tenth day of August and the ninth day of November; For
 25 the county of Taylor, on the twenty-third day of February,
 26 the twenty-fifth day of May, the twenty-fourth day of Au-
 27 gust and the twenty-third day of November; For the county
 28 of Tucker, on the ninth day of March, the fifth day of June,
 29 the seventh day of September and the seventh day of Decem-
 30 ber; and for the county of Preston, on the sixteenth day of
 31 March, the thirteenth day of June, the fourteenth day of
 32 September and the fourteenth day of December.

33 III. In the Third Circuit—For the county of Barbour, on
 34 the first day of March, the sixteenth day of May, the first
 35 day of September and the sixteenth day of November; For
 36 the county of Harrison, on the twelfth day of March, the

37 first day of June, the sixteenth day of September and the
38 first day of December; and for the county of Marion, on the
39 first day of April, the sixteenth day of June, the first day of
40 October, and the sixteenth day of December.

41 IV. In the Fourth Circuit—For the county of Wetzel, on
42 the first day of March, and the same day of May, September
43 and November; For the county of Pleasants, on the tenth
44 day of March, and the same day of May, September and
45 November; For the county of Ritchie, on the eighteenth day of
46 March, and the same day of May, September and November;
47 For the county of Gilmer, on the thirtieth day of March,
48 and the same day of May, September and November; For
49 the county of Tyler, on the eighth day of April, and the
50 same day of June, October and December; and for the county
51 of Doddridge, on the twentieth day of April, and the same
52 day of June, October and December.

53 V. In the Fifth Circuit—For the county of Lewis, on the
54 first day of March, and the same day of May, September and
55 November; For the county of Upshur, on the fifteenth day
56 of March, and the same day of May, September and November;
57 For the county of Randolph, on the twenty-seventh day

58 of March, and the same day of May, September and Novem-
59 ber; For the county of Braxton, on the ninth day of April, and
60 the same day of June, October and December; For the county
61 of Nicholas, on the sixteenth day of April, and the same day
62 of June, October and December; and for the county of Web-
63 ster, on the twenty-third day of April, and the same day of
64 June, October and December.

65 VI. In the Sixth Circuit—For the county of Jackson, on
66 the first day of March, and the same day of May, September
67 and November; For the county of Roane, on the thirteenth
68 day of March, and the same day of May, September and
69 November; For the county of Calhoun, on the twentieth day
70 of March, and the same day of May, September and Novem-
71 ber; For the county of Clay, on the twenty-seventh day of
72 March, and the same day of May, September and November;
73 For the county of Wirt, on the fourth day of April, and the
74 same day of June, October and December; and for the county
75 of Wood, on the fifteenth day of April, and the same day of
76 June, October and December.

77 VII. In the Seventh Circuit—For the county of Mason,
78 on the first day of March, and the same day of May, Sep-

79 tember and November; For the county of Putnam, on the
 80 fifteenth day of March, and the same day of May, September
 81 and November; For the county of Fayette, on the twenty-
 82 fifth day of March, and the same day of May, September and
 83 November; and for the county of Kanawha, on the second
 84 day of April, and the same day of June, October and De-
 85 cember.

86 VIII. For the Eighth Circuit—For the county of Wayne,
 87 on the first day of March, and the same day of May, Sep-
 88 tember and November; For the county of Cabell, on the
 89 twelfth day of March, and the same day of May, September
 90 and November; For the county of Boone, on the twenty sev-
 91 enth day of March, and the same day of May, September
 92 and November; For the county of Raleigh, on the seventh
 93 day of April, and the same day of June, October and Decem-
 94 ber; For the county of Wyoming, on the seventeenth day of
 95 April, and the same day of June, October and December;
 96 and for the county of Logan, on the twenty-sixth day of
 97 April, and the same day of June, October and December.

98 IX. In the Ninth Circuit—For the county of Pocahontas,
 99 on the first day of March, and the same day of May, Sep-
 100 tember and November; For the county of Greenbrier, on the

101 eighth day of March, and the same day of May, September
102 and November; for the county of Monroe, on the nineteenth
103 day of March, and the same day of May, September and
104 November; For the county of Mercer, on the twenty-ninth
105 day of March, and the same day of May, September and
106 November; and for the county of McDowell, on the sixth
107 day of April, and the same day of June, October and De-
108 cember.

109 X. In the Tenth Circuit—For the county of Pendleton, on
110 the first day of March, and the same day of May, September
111 and November; For the county of Hardy, on the eleventh
112 day of March, and the same day of May, September and
113 November; For the county of Hampshire, on the twenty-
114 seventh day of March, and the same day of May, Septem-
115 ber and November; and for the county of Morgan, on the
116 twentieth day of April, and the same day of June, October
117 and December.

118 4. The Judge of any Circuit may appoint and hold a spe-
119 cial term of any Court thereof, pursuant to the twenty-ninth,
120 thirty-first, thirty-second and thirty-third sections of the one
121 hundred and forty-eighth chapter of the said Code.

122 5. This Act shall be in force from its passage.

HOUSE BILL No. 13.

AN ACT TO AUTHORIZE THE SUPERINTENDENT OF
SCHOOLS FOR PRESTON COUNTY, TO PAY CER-
TAIN CLAIMS FOR THE TUITION OF INDIGENT
CHILDREN.

1 1. *Be it enacted by the Legislature of West Virginia, That*
2 it shall be lawful for the Superintendent of Schools for Pres-
3 ton county, to pay to W. S. Lyon, out of any monies in his
4 hands belonging to the school fund of said county, the sum of
5 sixty dollars and ninety cents, the same being the aggregate
6 amount of two orders drawn upon the said superintendent by
7 David Frankhouser and Benjamin Michaels, school commis-
8 sioners of said county, dated respectively, March 26th, 1863,
9 and March 28th, 1863, and payable to the order of the said
10 W. S. Lyon, and the said superintendent is hereby directed to
11 pay the said sum of sixty dollars and ninety cents as afore-
12 said, upon the presentation of the said orders.

13 2. This act shall be in force from its passage.

HOUSE BILL No. 14.

A BILL TO REGULATE THE TAX ON SEALS.

1 1. *Be it enacted by the Legislature of West Virginia, That*
2 when the seal of a court, of a notary public, or the seal of the
3 State, is annexed to any paper, except in those cases exempted
4 by law, the taxes shall be as follows: For the seal of the State
5 two dollars; and for any other seal fifty cents; and the tax
6 shall be the same, though a scroll be used in lieu of an official
7 seal.

8 2. The forty-second section of the act of the General As-
9 sembly of Virginia, passed February 3, 1863, entitled "An
10 Act imposing taxes for the support of the Government," is
11 hereby repealed.

12 3. This act shall be in force from its passage.

HOUSE BILL No. 15.

A BILL TO PRESCRIBE THE MANNER IN WHICH
MONEY MAY BE PAID INTO THE TREASURY OF
THE STATE.

1 1. *Be it enacted by the Legislature of West Virginia, That*
2 all money to be paid into the Treasury of this State, shall be
3 paid into the Merchants' and Mechanics' Bank of Wheeling,
4 at the city of Wheeling, or one of its branches at Point Pleas-
5 ant, Clarksburg or Morgantown; or into the North Western
6 Bank of Virginia at Wheeling, or one of its branches at Par-
7 kersburg or Wellsburg; or into the Exchange Bank of Vir-
8 ginia at Weston—to the credit of “the Treasury of West
9 Virginia;” and the person so paying the same shall take
10 from the proper officer of such bank or branch a certificate of
11 the fact. The Treasurer, on the delivery to him of such cer-
12 tificate, shall return and file the same, charging the amount
13 therein specified to the proper bank or branch, and delivering
14 to the person who made the payment at bank, duplicate re-
15 ceipts for the amount so paid, specifying on what account the
16 same was paid. The person making the payment shall forth-

17 with hand over one of the said receipts to the Auditor, who
18 shall retain and file the same, charging the amount to the
19 Treasurer's account, and endorse on the other receipt, which
20 is to be retained by the person making the payment, as fol-
21 lows: "A duplicate hereof has been filed in the Auditor's
22 office," and affix his signature and the proper date to such en-
23 dorsement. And no receipt of the Treasurer shall be an
24 acquittance or discharge to any person for any sum of money
25 due this State, unless endorsed by the Auditor as aforesaid;
26 and any person liable to pay money into the Treasury, who
27 shall pay the same otherwise than according to this act, shall
28 remain liable for such money, and be subject to the same fine,
29 penalty, forfeiture or damages to which he would have been
30 subject if he had not paid the same.

31 2. If the Governor, at any time when the Legislature is not
32 in session, be of opinion that the safety of the public funds
33 requires that no more money should be paid to the credit of the
34 Treasury into any one or more of the depositories specified in
35 this act, he shall announce the fact by proclamation to be pub-
36 lished in some newspaper in the city of Wheeling; and after
37 such proclamation is published, it shall not be lawful to pay
38 any sum of money on State account into any depository or

39 depositories to which such payment shall be thereby forbidden.
40 And if the Governor, at any time when the Legislature is not
41 in session, be of opinion that the safety of the public funds
42 requires it, he shall by his order in writing, direct the Auditor
43 and Treasurer to transfer the money held by any depository or
44 depositories on account of the Treasury, to any other safe and
45 proper depository or depositories to be designated in such
46 order; and the Auditor and Treasurer shall thereupon trans-
47 fer the same as directed. But all such proclamations and or-
48 ders shall, as soon as possible thereafter be submitted to the
49 Legislature.

50 3 The eighth, ninth and tenth section of the ordinance
51 passed June 21, 1861, entitled "An ordinance relating to the
52 receipts and disbursements of the public revenue, and provi-
53 ding for the appointment of an Auditor, Treasurer and Secre-
54 tary of the Commonwealth;" and the act of the General
55 Assembly of Virginia, passed May 13th, 1862, to amend the
56 eighth section of the said ordinance, are hereby repealed.

57 4. This act shall be in force from its passage.

HOUSE BILL No. 16.

A BILL TO REGULATE CRIMINAL PROCEEDINGS AGAINST NEGROES.

1 1. *Be it enacted by the Legislature of West Virginia,* A
2 negro* charged with any offence† shall be prosecuted and tried
3 in the same manner, and, if convicted, be subjected to the same
4 punishment, as a white person; but a negro shall be a compe-
5 tent witness for or against a negro in any criminal proceeding.

6 2. Chapter two hundred and twelve of the Code of Vir-
7 ginia, and the several statutory provisions incorporated there-
8 in, are hereby repealed.

9 3. This act shall be in force from its passage.

*This term includes mulattoes—Code, 2d edit. p. 510, §1.

†The word "offence" includes felonies and misdemeanors—Code,
p. 812, §1.

HOUSE BILL No. 17.

A BILL TO AMEND THE ACT STAYING THE COLLECTION OF CERTAIN DEBTS.

1 1. *Be it enacted by the Legislature of West Virginia*, If it
2 appear to the Judge of any Circuit that any person who has
3 executed a deed of trust on estate, real or personal, within the
4 said Circuit, is engaged in levying war against the United
5 States, or in giving aid and support to the rebellion, it shall
6 be lawful for the said Judge, at the request of any party inter-
7 ested, to issue an order under his hand, directed to the trustee
8 requiring him to advertise and sell the said estate pursuant to
9 the deed of trust, notwithstanding any thing to the contrary
10 contained in the Act of the General Assembly of Virginia,
11 passed January 30, 1863, entitled "An Act staying the collec-
12 tion of certain debts;" and it shall be the duty of the trustee to
13 comply with the said order.

14 2. Where any decree has been heretofore rendered for the
15 sale of real estate belonging to infants, the Judge for the Cir-
16 cuit in which such real estate may lie, may, if he deem it for
17 the interest of the infants, and their guardian, if there be any,
18 consent thereto, direct such sale to be made pursuant to said
19 decree, notwithstanding any thing contained to the contrary in
20 the said Act of January 30, 1863.

21 3. This Act shall be in force from its passage.

HOUSE BILL No. 18.

**A BILL TO PRESCRIBE THE TIME FOR HOLDING
RULES IN THE CLERK'S OFFICE OF THE CIRCUIT
COURT FOR OHIO COUNTY.**

1 1. *Be it enacted by the Legislature of West Virginia, That*
2 rules shall be held in the clerk's office of the Circuit Court for
3 Ohio county on the last Tuesday of every month, instead of the
4 time now prescribed by law ; and such rules may continue three
5 days.

6 2. This act shall be in force from its passage.

HOUSE BILL No. 19.

A BILL TO REGULATE THE RECOVERY OF CLAIMS WHERE THE STATE IS A PARTY INTERESTED.

1 1. *Be it enacted by the Legislature of West Virginia,* The
2 forty-second, forty-third and forty-sixth chapters of the Code
3 of Virginia, second edition, shall be amended by striking out
4 the words "Circuit Court of the city of Richmond," "Com-
5 monwealth," and "Virginia," wherever they occur, and inser-
6 ting in place thereof the words "Circuit Court for Ohio
7 county," "State," and "West Virginia" respectively.

8 2. The forty-third chapter shall be further amended by
9 striking out the words "in the county or corporation court, or,"
10 and the words "or corporation," wherever they occur in the
11 second section thereof; and by inserting the word "assessor,"
12 in place of "commissioner of the revenue," twice in the fifth
13 section; and the words "the clerk of the circuit court for his
14 county," in place of "the clerk of his county or corporation
15 court" in the sixth section; and the words "the circuit court
16 for his county" in place of "the court of his county or corpo-
17 ration" in the ninth section; and the words "The prosecuting
18 attorney," in place of "The attorney for the commonwealth"
19 in the thirteenth section.

20 3. The twenty-second section of the forty-third chapter
21 shall be amended to read as follows: "22. If any sheriff or
22 other officer shall pay any amount so charged him, and it shall
23 afterwards appear by the return on the execution therefor,
24 that nothing was received thereon, the auditor shall thereupon
25 issue a warrant on the treasury to refund the amount so paid."

26 4. The said forty-second, forty-third and forty-sixth chap-
27 ters shall be and continue in force, amended as aforesaid, as
28 laws of this State.

29 5. This act shall be in force from its passage.

HOUSE BILL No. 20.

AN ACT TO AUTHORIZE THE PAYMENT OF OUT- STANDING CLAIMS FOR THE TUITION OF INDI- GENT CHILDREN.

Be it enacted by the Legislature of West Virginia :

2 1. The superintendents of schools for the several counties of the
3 State, be and they are hereby authorized and directed to pay,
4 out of any moneys in any way accruing or belonging to the
5 literary fund prior to the twentieth day of June, one thousand
6 eight hundred and sixty-three, and which has heretofore or
7 may hereafter come into their hands; all outstanding claims
8 for the tuition of indigent children, where such services were
9 rendered previous to the thirtieth day of September, one thou-
10 sand eight hundred and sixty-two, and where the accounts for
11 such services have been properly made out and lawfully certi-
12 fied, and orders given for the amount thereof by the school
13 commissioner who authorized the services to be performed,
14 upon the superintendent of schools for the county where such
15 services were rendered: Provided, That nothing in this act
16 shall be so construed as to authorize the payment of any claim
17 for such services rendered prior to the thirtieth day of Sep-
18 tember, in the year one thousand eight hundred and sixty, in
19 any school district where the commissioner thereof had previ-
20 ously exhausted his quota for the current year.

21 2. This act shall be in force from its passage.

HOUSE BILL No. 21.

A BILL DEFINING THE JURISDICTION AND POWERS OF THE SUPREME COURT OF APPEALS AND THE JUDGES THEREOF.

1 1. *Be it enacted by the Legislature of West Virginia,* In
2 addition to the jurisdiction conferred on the Supreme Court
3 of Appeals by the Constitution, the said court, and the judges
4 thereof respectively, shall succeed to and have all the jurisdic-
5 tion and powers, original and appellate, which, under the laws
6 in force on the nineteenth day of June, eighteen hundred and
7 sixty-three, could have been exercised by the Supreme Court of
8 Appeals, or the District Courts of Virginia, or the Judges
9 thereof respectively, respecting any suit or proceeding within
10 the limits of this State.

11 2. The Supreme Court of Appeals of this State shall hear
12 and determine all causes legally docketed therein or trans-
13 ferred thereto. And it shall be the duty of the Clerk of the
14 said court, if in his power to do so, to procure without delay
15 the record of every cause which, on the nineteenth day of

16 June eighteen hundred and sixty-three, was pending in the
17 Supreme Court of Appeals of Virginia and the District Courts
18 thereof, if the Supreme Court of Appeals of this State have
19 jurisdiction of such cause; and to docket the same in his said
20 court before the commencement of the first term thereof,
21 which shall be held in the year eighteen hundred and sixty-
22 four.

23 3. The appellant in every such cause shall procure and
24 deliver to the said clerk, a proper record of the said cause be-
25 fore the close of the first term of the Supreme Court of Ap-
26 peals of this State to be held in the year eighteen hundred
27 and sixty-five, and cause the same to be docketed. And upon
28 failure of the appellant to deliver the said record and have
29 the same docketed as aforesaid, the cause shall stand dismissed
30 at the close of the last mentioned term, and the original judg-
31 ment or decree of the court below remain in full force. Pro-
32 vided, that the Supreme Court of Appeals of this State, for
33 good cause, may, at any time before a cause is dismissed as
34 aforesaid, grant further time for producing the records and
35 having the same docketed, but such extension shall not be
36 granted more than once, and if the record be not delivered
37 and the cause docketed within the time so allowed, the cause
38 shall stand dismissed as aforesaid.

39 4. It shall be the duty of the several clerks of the above
40 mentioned courts which have ceased to exist within this State,
41 to deliver to the clerk of the Supreme Court of Appeals of
42 this State the records, books, papers, seals and other property
43 of the said courts.

44 5. In all cases where the time limited for appeal from, or
45 writ of error, or supersedeas to any judgment, decree or order
46 of any Circuit Court, has expired since the seventeenth day of
47 April, eighteen hundred and sixty-one, or shall hereafter ex-
48 pire before the close of the first term of the Supreme Court
49 of Appeals of this State, to be held in the year eighteen hun-
50 dred and sixty-four, any party who would otherwise have
51 been entitled thereto, may, at any time before the close of the
52 first term of the said court to be held in the year eighteen
53 hundred and sixty-five, present his petition for such appeal,
54 writ of error or supersedeas, notwithstanding anything to the
55 contrary contained in the third section of chapter one hun-
56 dred and eighty-two of the Code of Virginia, second edition,
57 or in any other law or statute of the State of Virginia.

58 6. The Supreme Court of Appeals of this State may ap-
59 point a tipstaff and crier, who shall receive out of the treasury
60 such reasonable compensation as the court may allow, and be

61 removable at pleasure. The court shall also appoint, and
62 may remove at pleasure, a reporter; and make such order,
63 from time to time, respecting the preparation, publication and
64 distribution of his reports, as may seem to them proper. The
66 reporter shall receive one thousand dollars annually.

67 7. Chapters one hundred and fifty-nine, one hundred and
68 sixty, and one hundred and sixty-six, the sixth section of chap-
69 ter fourteen, the third and fourth sections of chapter nineteen
70 of the said Code, and so much of the tenth section of the last
71 mentioned chapter, as relates to the reports of decisions, are
72 hereby repealed.

73 8. This Act shall be in force from its passage.

HOUSE BILL No. 22.

**A BILL TO PREVENT THE ENCOURAGEMENT OF IN-
VASIONS AND INSURRECTIONS.**

1 1. *Be it enacted by the Legislature of West Virginia,*
2 Every person who shall attempt to justify and uphold an arm-
3 ed invasion of this State, or an organized insurrection therein,
4 during the continuance of such invasion or insurrection, by
5 publicly speaking, writing or printing, or by publishing or cir-
6 culating such writing or printing, shall be deemed guilty
7 of a misdemeanor, and being thereof convicted, shall be con-
8 fined in jail not exceeding twelve months and fined not ex-
9 ceeding one thousand dollars.

10 2. This act shall be specially given in charge to the grand
11 juries at every regular term of the circuit courts.

12 3. This act shall be in force from its passage.

HOUSE BILL No. 23.

**A BILL TO PROVIDE SEALS FOR THE SEVERAL
COURTS AND RECORDERS.**

1 1. *Be it enacted by the Legislature of West Virginia, For*
2 every court or recorder, without one, the Governor shall provide
3 a seal, to be deposited with the clerk of the said court, or with
4 the said recorder respectively.

5 2. This act shall be in force from its passage.

HOUSE BILL No. 24.

AN ACT FOR THE RELIEF OF MILTON WELLS.

1 1. *Be it enacted by the Legislature of West Virginia, That*
2 Milton Wells, elected clerk of the circuit court for Brooke
3 county, be allowed one hundred and twenty days after his elec-
4 tion, in which to qualify and give the bond of his office.

5 2. This Act shall be in force from its passage.

HOUSE BILL No. 25.

A BILL TO PROVIDE FOR THE APPOINTMENT AND QUALIFICATION OF DEPUTY SHERIFFS, RECORDERS AND CLERKS.

1 1. *Be it enacted by the Legislature of West Virginia, A*
2 sheriff, recorder, or clerk of any court, may with the consent
3 in writing of the circuit court for the county or the judge
4 thereof in vacation, appoint any person as his deputy; and
5 such deputy during his continuance in office, may discharge
6 any of the official duties of his principal.

7 2. Such deputy may be removed from office by his principal
8 or by the circuit court of the county.

9 3. If a sheriff, recorder, or the clerk of any court, die dur-
10 ing his term of office, his deputies in office at the time of his
11 death may continue to discharge the duties of the office, in the
12 name of the deceased, until the qualification of his successor;
13 and any default or misfeasance in office of such deputy shall
14 be deemed a breach of the condition of the official bond of the
15 principal, notwithstanding his death; but the personal repre-
16 sentative of the deceased principal shall have the same right
17 to remove any deputy from office, and to appoint another, that
18 the principal would have had if alive.

19 4. Any appointment of deputy sheriff, recorder, or clerk
20 made since the nineteenth day of June, eighteen hundred and
21 sixty-three, with the consent in writing of the Judge of the
22 circuit court for the county, shall have the same force and
23 effect as if made in pursuance of this act.

24 5. This act shall be in force from its passage.

HOUSE BILL No. 26.

A BILL DEFINING IN PART THE POWERS AND DUTIES OF TOWNSHIPS.

Be it enacted by the Legislature of West Virginia :

1 1. Each township is a body corporate, and may sue or be
2 sued by its corporate name before any court or justice before
3 whom a person may sue or be sued under similar circumstan-
4 ces. It shall have power to purchase, to receive grants, devi-
5 ses, bequests and conveyances of, and to hold real estate for
6 the public use of its inhabitants, and to grant, convey and dis-
7 pose of the same; and to make all contracts and agreements
8 that may be necessary and convenient in the proper exercise
9 of its corporate and administrative powers. Every grant,
10 devise or conveyance of land within its limits, made in any
11 manner for the use or benefit of its inhabitants, shall have the
12 same effect as if made to it by its corporate name.

13 2. The voters of each township may at any legal meeting
14 where the same is in order, make all necessary and proper by-
15 laws and orders, not contrary to law, for the government of
16 their meetings and for the regulation of the affairs of their
17 township committed to their administration, subject to such
18 rules and limitations as may be prescribed by law; and may
19 in like manner impose suitable penalties for the breach thereof,
20 not exceeding ten dollars in any one case, and sue for and

21 recover the same before any justice having jurisdiction. But
22 no such by-law or order having a future or continuous opera-
23 tion, shall take effect until ten days after copies thereof have
24 been posted at three of the most public places in the township.
25 By-laws and orders so made and published shall be binding on
26 all persons coming into the township, or owning property
27 therein to which such by-law or order applies, as well as on
28 the inhabitants thereof, and shall remain in force until altered
29 or repealed.

30 3. The votes of each township may at any legal annual
31 meeting, or at a special meeting duly called for the purpose,
32 if the votes in favor of the proposition are two-thirds of the
33 whole number given, or equal in number to a majority of all
34 the registered voters of the township, in addition to all other
35 taxes levied on the property of their townships, levy taxes on
36 such property for the following purposes, within the limits
37 hereinafter specified.

38 For the maintenance and improvement of the free schools es-
39 tablished by law within their township, not more in any one
40 year than ——— cents on every one hundred dollars of the
41 taxable value of such property according to the most recent
42 legal assessment of the same.

43 For procuring the necessary land and erecting school houses
44 and furnishing the same not more in any one year than

45 ——— cents on every one hundred dollars of such value.

46 For the opening, repair and improvement of public roads and
47 the building and repair of bridges on the same, not more in
48 any one year than ——— cents on every one hundred dol-
49 lars of such value.

50 For purchasing the necessary land and erecting a township
51 hall for holding meetings and elections and the accommoda-
52 tion of the township clerk and other officers, not more than
53 ——— cents on every one hundred dollars of such value.

54 But nothing in this section contained shall prevent the town-
55 ship making contracts for any of the above purposes, if the
56 payments on account thereof are so arranged that the annual
57 appropriation required to meet the same, shall not exceed the
58 amount authorized to be raised by taxation for such purpose in
59 any one year.

60 The balance of all claims against any township over the mon-
61 ey in or due to its treasury applicable to their payment, re-
62 maining due and unpaid at the close of any fiscal year, the
63 amount of all claims and appropriations payable during the
64 next fiscal year and of the estimated current and contingent
65 expenses of the same period, shall be included in the next an-
66 nual levy on the taxable property of such township.

67 4. This act shall be in force from its passage.

HOUSE BILL No. 28.

A BILL PROVIDING FOR AND REGULATING TOWNSHIP MEETINGS AND ELECTIONS.

Be it enacted by the Legislature of West Virginia,

1 1. The first meeting of the voters of each township, and
2 the first election therein for township officers, shall be held on
3 the day, at the place, and in the manner, directed in the sched-
4 ule hereto annexed, and shall be conducted according to the
5 provisions contained in the body of this act applicable thereto,
6 except so far as the same are changed or modified as to the
7 said first meetings and elections by the provisions of the said
8 schedule. All subsequent annual township meetings and
9 elections shall be held on the fourth Saturday in April in each
10 and every year, at such convenient place within the township
11 as shall be from time to time appointed by the Board of Su-
12 pervisors of the county.

13 2. Every annual township meeting shall assemble for the
14 transaction of business, at the hour of nine in the forenoon of
15 the appointed day, and the polls at any annual or special elec-
16 tion of township officers, if there is a township meeting on the
17 same day, shall be opened at the hour of eleven, unless the
18 business of the meeting be sooner concluded or the same be
19 sooner adjourned, in which case the polls may be opened im-
20 mediately thereafter, and in either case shall continue open,
21 with a recess of not more than one hour, if the Inspector so

22 direct, at such time as they may appoint, until sunset of the
23 same day, when the polls shall be finally closed. If the meet-
24 ing has not completed its business when the hour for opening
25 the polls arrives, it may adjourn until the next day, and from
26 day to day, until its business is completed. Meetings appoint-
27 ed for a day on which there is no public election held in the
28 township, may be appointed for and held at such hour, not later
29 than three in the afternoon, as may be indicated in the notice
30 convening them.

31 3. To constitute a legal township meeting, the fact must ap-
32 pear and be entered on the minutes, that notice of the time
33 and place of holding the same has been duly given as required
34 by law; and that there are present, if the township is entitled
35 to elect but one justice, at least twenty voters thereof, and if
36 it is entitled to elect two justices, at least thirty such voters;
37 but if due notice has been given, a less number in either case
38 may adjourn to another day. Any meeting duly constituted
39 and held, may adjourn from day to day, or to a day certain, or
40 it may direct another meeting to be convened and held on such
41 day previous to the next annual meeting, as it may appoint.

2 Special meetings shall be convened whenever directed by the
43 Supervisor of the township, or whenever any ten voters thereof,
44 by writing stating the object of the proposed meeting, signed
45 with their proper hands and filed with the clerk of the town-
46 ship, shall so request. Of the time and place of holding all
47 meetings to be held in pursuance of adjournment, unless from

48 day to day, of all special meetings, and of the annual meet-
49 ings, the clerk shall cause notice to be given in the manner
50 hereinafter directed; but the annual meetings shall not fail for
51 want of such notice, if the number of voters present be suffi-
52 cient. No business besides that mentioned in the notice con-
53 vening it shall be transacted at a special meeting.

54 4. At every township meeting all propositions, motions,
55 orders and resolutions properly presented by any voter of
56 the township and seconded by another, shall be distinctly
57 put to vote by the presiding officer, and be decided by the
58 votes given by a majority of the voters present and voting on
59 the question. The mode of voting shall be by an oral vote in
60 the usual manner, or by a show of hands, or if the chair so
61 direct or any voter demand it before the result of the vote is
62 announced, there shall be a division and count; in which case
63 the chair may direct those voting affirmatively to go to his right
64 and those voting negatively to go to his left, and all persons
65 present not entitled to vote to retire beyond such limit as he
66 may designate, when he and the clerk shall ascertain the
67 numbers voting each way, and the result however ascertained
68 shall be announced by the chair and recorded on the minutes
69 of the meeting by the clerk. When any proposition, motion,
70 order or resolution is offered, any voter present may move to
71 amend the same, and if the question before the meeting admits,
72 different numbers or times may be proposed by the voters pres-
73 ent, in which case the vote shall first be taken on the greatest
74 number or longest time, and so on until some number or time

75 proposed receives a majority of the votes given. In cases of
76 appointments to be made by the meeting, any voter may pro-
77 pose a candidate, and if two or more are proposed, and the
78 number of votes given for each cannot be otherwise conveni-
79 ently ascertained, the chair may direct those voting for each
80 candidate to separate themselves from all others, when he and
81 the clerk shall proceed to ascertain the numbers voting for each
82 candidate, and if neither has a majority, the vote shall be re-
83 peated until there is a majority for one of the nominees; but
84 after the second attempt, the nominee receiving the lowest
85 number of votes shall be dropped, and shall not be again put
86 in nomination. The clerk shall record on the minutes the re-
87 sult of the deciding vote only. In all other respects the pro-
88 ceedings of the meeting shall be conducted with reference to
89 the usual parliamentary rules applicable to the case before it.
90 If questions of order arise, they shall be promptly decided by
91 the chair, from whose decision there shall be an immediate ap-
92 peal to the meeting, the question arising on which shall be
93 stated by the chair and put without debate or discussion.

94 5. The former election precincts, and places for holding
95 elections therein, are abolished. All elections held within any
96 township after the first township election shall be held at such
97 place in the near vicinity of the place of holding the annual
98 meetings, as may be appointed by the board of supervisors of
99 the county. But if owing to the intervention of water courses,
100 ridges, or other natural obstructions, the convenience of any

101 considerable number of the voters of any township may, in
102 the opinion of the board of supervisors of their county, re-
103 quire it, they may appoint an additional place or places for
104 holding elections in such township, and the supervisors and
105 inspectors thereof shall designate suitable voters residing
106 convenient to any such additional place, to discharge the du-
107 ties required of such officers at all elections held at such place
108 during the terms of office of the former; and the persons so
109 designated shall appoint the necessary clerks. When a place
110 of holding elections is appointed or changed by a board of
111 supervisors, their clerk shall notify in writing, the clerk of
112 the township interested, who shall thereupon file such notice
113 in his office and cause copies thereof to be conspicuously post-
114 ed at the place appointed or changed, and at two other public
115 places in the township. Until another place is appointed by
116 the board of supervisors, all elections shall be held at the
117 place of the first township election.

118 6. At the first and every subsequent annual township
119 election, there shall be elected by ballot in each township, in
120 addition to the officers mentioned in the second section of the
121 seventh article of the Constitution, two inspectors of elections,
122 who, together with the supervisor of their township, shall
123 superintend and conduct, as hereinafter provided, the next
124 annual township election, and all intermediate general and
125 special elections whether of State, county, or township offi-
126 cers held in their township. The supervisor shall provide,

127 and in the event of a difference of opinion between the in-
128 spector shall decide between them. He shall preserve order
129 at and in the vicinity of the polls, and may order any disor-
130 derly person to be removed therefrom, and on a repetition of
131 the offense may direct the offender to be taken in custody un-
132 til the close of the polls, which may be done by any consta-
133 ble present or other person designated by the supervisor
134 without written warrant or other authority; and such offender
135 shall nevertheless be liable to prosecution and fine or other
136 penalty prescribed by law, for a breach of the peace or other
137 misdemeanor. The inspector shall receive the ballots of all
138 persons offering the same, and if such persons are then and
139 there entitled to vote, deposit their ballots in the box and per-
140 form such other duties as are herein or may be by law requir-
141 ed of them. The clerk of the township, assisted by such
142 person or persons as the inspector may appoint, shall record
143 the names of the persons voting, and assist in counting the
144 votes, ascertaining the result, and making proper returns
145 thereof. If the supervisor or either of the inspectors is ab-
146 sent at the hour appointed for opening the polls, the voters
147 present shall appoint a suitable person or persons, being voters
148 of their township, to fill the vacancy or vacancies, and the
149 persons so appointed shall exercise the same powers and dis-
150 charge the same duties as are reposed in and required of the
151 officers whose places they fill. If the clerk is absent, the in-
152 spectors shall appoint some voter of the township to discharge
153 his duties as prescribed by this act. Before proceeding to

154 receive the ballots of voters, the supervisor or person dis-
155 charging his duties, shall administer the following oath to the
156 inspectors and clerks, and one of the inspectors shall after-
157 wards administer the same to him; to wit: "I solemnly swear
158 that I will support the Constitution of the United States, and
159 the Constitution of this State; and that in the election
160 about to be held, I will faithfully and impartially discharge
161 the duties of my office according to law.

162 7. The supervisors and inspectors shall admit all persons
163 to vote who are residents of their township and entitled to vote
164 under the first section of the third article of the Constitution
165 of this State; and any such resident so entitled, who expects
166 to be, and is, necessarily absent from the township on the day
167 of election by reason of his duties in the public service of
168 the United States or of this State, may, within fifteen days
169 next preceding the day of election, enclose his ballot in a
170 sealed envelope, on which his signature in his proper hand,
171 shall be written, addressed to the inspectors of election of his
172 township, either by their names or official designation, and
173 transmit the same to them, or one of them, by mail or other-
174 wise; and if such envelope and enclosure be received by
175 either inspector on or before the day of election, it shall be
176 produced at the polls, and the supervisor, first announcing
177 distinctly "the ballot of A B, under seal," shall proceed to
178 open the envelope in the presence of the inspectors, and

179 shall hand the enclosed ballot to one of them, who shall dis-
180 pose of the same as if the person whose name is endorsed on
181 the envelope were personally present and offering to vote; and
182 if such ballot be received and deposited in the box, the clerks
183 shall record the name of the voter on their lists, adding to it
184 the word "absent." The inspectors may swear any person
185 present and offering to vote, to answer truly such questions
186 as may be asked him touching his right to vote; and the
187 name of every person whose vote is offered and rejected
188 shall, if required by him, be entered on a separate list on the
189 poll books under the heading "rejected votes;" and in such
190 case the ballot offered shall be sealed up and the envelope or
191 cover endorsed "The ballot of A B, rejected this——day of
192 ——18—," which endorsement shall be signed by the
193 inspectors, or one of them, and the ballot so enclosed, re-
194 turned with those deposited in the box.

195 8. While the polls are open, the ballot-box shall be kept
196 where it may be seen by the voters, and while the polls are
197 closed, and until the votes are counted and recorded, it shall
198 remain in the immediate custody of the supervisor and in-
199 spectors, or, with the consent of the other or of any one
200 or two of them, but shall not be opened unless the three be
201 present. Every person desiring to vote, shall offer to the
202 inspectors a single ballot, or piece of white paper, on which
203 is written or printed, or partly written and partly printed,

204 the names of the persons for whom he intends to vote, with a
205 designation of the office he desires each to fill, so folded or
206 rolled that its contents cannot be seen. One of the inspec-
207 tors, taking the ballot in his hand, shall proclaim distinctly
208 the name of the person offering it, and hand it to the other
209 inspector, and if both inspectors, or one of them and the
210 supervisor, all of whom may closely inspect it in the sight of
211 each other, but without so far unfolding or unrolling it as to
212 disclose its contents, are satisfied that the ballot is single, and
213 that the person offering it is a legal voter of their township,
214 one of them shall deposit the ballot in the box, and the
215 clerks shall enter the name of the voter on their poll books,
216 which shall bear the following heading: "Names of all per-
217 sons voting at———in the township of———in the
218 county of———on the——day of——in the year——."

219 9. As soon as practicable after the final close of the polls,
220 the names entered on the poll books shall be counted by
221 the inspectors, aided by the clerks, in the presence of the
222 supervisor, and the number thereof, set down in words at
223 length at the foot of the lists, which shall then be signed by
224 the inspectors and countersigned by the clerks. The ballot-
225 box shall then be opened by the supervisor, and the ballots
225 found therein counted in like manner, and again placed in
226 the box. If the number of ballots exceeds the number of
227 the names of the voters entered on the poll list, the supervi-
228 sor, in sight of the inspectors and clerks, shall promiscuously
229 draw therefrom as many ballots as are equal in number to

230 the excess, which, without opening the same, he shall imme-
231 diately destroy. One of the inspectors shall then, taking
232 from the box one ballot at a time, distinctly read therefrom
233 the designations of the offices to be filled and the names of
234 the persons voted for for each, and deliver the ballot to the
235 other inspector, who being satisfied that it was correctly read,
236 shall string it upon a thread. The contents of the ballots,
237 as they are announced, shall be entered by the clerks, under
238 the supervision of the inspectors, on books provided for the
239 purpose, by suitable marks made opposite the name of each
240 person voted for. If two or more ballots are found folded or
241 rolled together, both shall be rejected and immediately des-
242 troyed, and if a ballot is found to contain more than the
243 proper number of names for any office, it shall not be count-
244 ed as to the said office.

245 10. When the result is fully ascertained, the inspectors
246 shall make and sign two certificates to the following effect :
247 "We, the undersigned inspectors of the election held at—
248 in the township of—, in the county of—, this—
249 day of—in the year—, hereby certify that we have
250 fairly and impartially held the said election according to law,
251 and that the result is as follows: For supervisor A B received
252 —votes and C D—votes. For clerk of the the town-
253 ship E F received—votes, G H—votes and I K—
254 votes;" and so on throughout, according to the truth, stating
255 in words at length the name of every person voted for, and
256 the number of votes received by each person for any office.

257 The ballots shall then be enclosed by the inspectors in an en-
258 velope or cover, which they shall seal up and write their
259 names across the seals and endorse on the envelope or cover,
260 the following: "Ballots of the election held at—in the
261 township of—, in the county of—, on the—day of—
262 in the year—;" and they, or one of them, shall within
263 five days after the day of election deliver the ballots so sealed
264 up, one copy of the poll books, and one of the said certifi-
265 cates signed as aforesaid, to the clerk of the board of super-
266 visors of their county. The other copy of the poll books,
267 and the other certificate, shall be delivered to the clerk of
268 the township, who shall file the same in his office.

269 11. The board of supervisors of the county in which any
270 township election is held, shall convene on the tenth day
271 thereafter, and their clerk shall lay before them the certifi-
272 cate of the result of said election, together with the pol^l
273 books and ballots thereof delivered to him as aforesaid. If
274 the board believe that the election was fairly and impartially
275 conducted and truly returned, they shall declare by resolution
276 or resolutions duly entered on their journal, who are elected
277 and to what offices, except in cases where notice in writing
278 has previously been filed with their clerk, of the intention of
279 any person voted for at the said election, to contest the elec-
280 tion of the person appearing to have received the highest
281 number of votes for any office. In such cases no declaration
282 of an election to such office, shall then be made; but the

283 board shall appoint a day, not less than ten nor more than
284 thirty days thereafter when they will hear and consider such
285 written depositions taken on the part of either contestant, on
286 due notice to the other, and such documentary evidence and
287 proofs, as shall then be presented, after which hearing and
288 consideration they shall in like manner declare the result in
289 the contested case or cases. The cost of each deposition or
290 set of depositions and of each official copy used as proof,
291 shall be noted thereon by the justice or other officer taking
292 the depositions or furnishing the copy, and the board may
293 direct their clerk to certify what amount of the cost incurred
294 by him in the proceeding, either of the contestants is entitled
295 to receive from the other; which amount so certified, may be
296 recovered by the party so entitled, before any court or jus-
297 tice having jurisdiction thereof.

298 12. The terms of all township officers, including the super-
299 visors, not elected to fill a vacancy, shall commence and be
300 computed from the twentieth day of June next after the an-
301 nual election at which they are elected. Elections to fill va-
302 cancies, shall be for the unexpired term, and the persons
303 elected, having first duly qualified, shall enter upon the duties
304 of their respective offices immediately after the board of su-
305 pervisors have declared them elected. In case of a vacancy
306 in any township office, except that of inspector of elections,
307 supervisor may, if he deem proper, and shall, if request-

308 ed in writing by any ten voters of his township. direct a spe-
309 cial township meeting to be held at such time as he may ap-
310 point, for the purpose of filling such vacancy; and such
311 meeting when duly constituted, shall proceed to appoint a
312 suitable person to exercise the powers, discharge the duties,
313 and receive the emoluments of such office until the twentieth
314 day of June first after the next annual township election.
315 At such election, if the vacant office is elective, and the term
316 of the former incumbent does not expire on the said twenti-
317 eth day of June, a suitable person shall be elected to fill such
318 office from the said day until the expiration of said term.

319 13. When notice is required to be given of any township
320 meeting, election or other proceeding or matter, the clerk of
321 the township shall prepare a suitable written, or written and
322 printed notice of the same, and three written, or written and
323 printed copies thereof, all of which he shall sign with his
324 name and official designation; and shall cause the said copies
325 respectively, to be conspicuously posted at three of the most
326 public places in his township, by a constable thereof, or in
327 case of his absence from the township or inability to act, by
328 some other person, for which service and for making affidavit
329 of the time and manner of performance thereof and return-
330 ing the same to the clerk, the said officer or person shall be
331 entitled to receive from the township treasury, for each copy
332 duly and properly posted and affidavit thereof returned as

333 aforesaid, a fee of fifty cents. The original notice with the
 334 affidavit or affidavits of the officer or person who posted the
 335 copies annexed or attached, shall be filed by the clerk in his
 336 office. All notices of township meetings and elections shall
 337 be so posted, at least ten and not more than twenty days be-
 338 fore the time appointed, and at least ten days notice shall be
 339 given of any matter or event in which the township is
 340 interested, of which notice is required. Any township meet-
 341 ing, at which such business is in order, may prescribe
 342 the places at which notices shall be posted, and may also, in
 343 any case, direct a copy of the required notice to be inserted
 344 in some newspaper circulated in their township, at the expense
 345 thereof. But no annual meeting or annual election, or any
 346 proceeding thereof or thereat shall be deemed illegal for
 347 want of such notice. Every notice convening a special or
 348 adjourned meeting, shall plainly state the objects or purpo-
 349 ses for which the same is convened.

350 14. This Act shall be in force from its passage.

SCHEDULE.

1 1. The first township meetings and elections in the several
 2 townships of the State, shall be held on the——day of——
 3 next, at such place within each township as may be designated
 4 by the commissioners thereof, appointed by an act passed at
 5 the present session of the Legislature, entitled "An Act to
 6 provide for the division into townships of the several counties
 7 of the State." But if, owing to the occupation of any county
 8 or part thereof, by persons in rebellion against the United

9 States, or any other cause, the said first meeting and election is
10 not held in any township on the day herein appointed, the
11 same shall be held on such day as may be designated by the
12 commissioners thereof, appointed as aforesaid, for the county
13 wherein such township is situated. The said commissioners
14 shall cause notice to be given of the time and place of hold-
15 ing such meeting and election, by notices posted at three pub-
16 lic places within such township, at least ten days before the
17 day so designated.

18 2. When the hour of nine in the forenoon of the day ap-
19 pointed for holding the first township meeting and election has
20 arrived, any voter present may call the meeting to order,
21 which shall be thereupon organized by the appointment of a
22 temporary supervisor and clerk; and when organized, if the
23 number of voters requisite to constitute a quorum be present,
24 shall proceed to appoint two temporary inspectors of elections,
25 who, together with the temporary supervisor and clerk, shall
26 exercise the powers and discharge the duties in reference to
27 superintending, conducting and certifying and returning the
28 results of the election to be held in such township on the
29 same day, as are reposed in and required of such officers by
30 the foregoing act.

31 3. The first meeting in each township shall appoint a com-
32 mittee of three or more voters, who shall, as soon as practi-
33 cable thereafter, proceed to divide the township into as many
34 road precincts as the meeting shall direct, or if no such direc-
35 tion be given, as the committee may deem proper and conve-
36 nient, not including the streets or roads within a city or incor-
37 porated town, which levies an annual tax and provides for
38 keeping the streets or roads within the same, in order. The
39 committee shall report the division made by them, to a special

township meeting, the time and place for holding which, shall be fixed by the first meeting, of which the clerk of the township shall cause due notice to be given. If the division of the committee, as reported by them, or as amended by the meeting, is then adopted, or whenever the same is adopted, an election for a surveyor of roads for each road precinct, being a voter and resident thereof, shall be held, if, in the opinion of the meeting, there is time, on the same day, and if otherwise, on the next day, at such hour as it may appoint. Such election shall be superintended and conducted and the result ascertained, certified and returned as at other township elections; but if any ballot contains the names of two or more persons residing in the same road precinct, it shall not be counted for either.

4. The terms of office of the officers elected at the first township elections, if the same are held at the time herein appointed, or if held at any other time under the provisions of the first section of this schedule, and such time occur before the time for holding the State and County election, in the present year, shall commence on and include the tenth day after their respective elections, but shall continue and be computed as if the same had begun on the twentieth day of June in the present year. But if the time of holding the first election occurs after the said State and County elections, and before, or at the time appointed for holding the annual township elections in the year one thousand eight hundred and sixty-four, the terms of the officers then elected, shall commence on and include the tenth day thereafter, but shall continue and be computed as if the same had begun on the twentieth day of June next.

HOUSE BILL No. 28.

**A BILL CONCERNING THE BALTIMORE AND
OHIO RAILROAD.**

Be it enacted by the Legislature of West Virginia:

1 1. So much of the Baltimore and Ohio Rail
2 Road as lies within the State of West Virginia,
3 shall be released from paying any taxes for the
4 years eighteen hundred and sixty-one, eighteen
5 hundred and sixty-two, and eighteen hundred
6 and sixty-three.

7 2. This act shall be in force from its passage.

HOUSE BILL No. 29.

AN ACT TO PROVIDE FOR THE ISSUING OF GRANTS
WHERE ENTRYS HAVE HERETOFORE BEEN MADE.

Be it enacted by the Legislature of West Virginia:

1 1. In all cases where an entry has been heretofore made of
2 any waste and unappropriated land within the limits of this
3 State, by virtue of any warrant issued by the Register of the
4 Land Office of the Commonwealth of Virginia, upon which no
5 grant has issued, if the land thus entered has been surveyed
6 according to the provisions of chapter one hundred and twelve
7 of the Code of Virginia, second edition, whether the plat and
8 certificate of survey have been returned to the office of the
9 said Register or not, the person for whom the said entry was
10 made, or his legal representative, may apply to the surveyor
11 of lands for the county where the land so entered is situated,
12 whose duty it shall be within three months thereafter, to make
13 out a fair and true plat from the filed notes of the original
14 survey in accordance with the requirements of the said chap-
15 ter one hundred and twelve, of the said code, and deliver the
16 same, together with the certificate of survey, to the locator or
17 his legal representative, who shall, within six months there-
18 after, return the said plat and certificate of survey to the
19 Secretary of the State, and may demand and shall receive
20 from him, a receipt for the same.

21 2. Where such an entry of land has been heretofore made,
22 but not lawfully surveyed, the person for whom the entry was
23 made or his legal representative, may apply to the surveyor
24 of lands for the county where the land so entered is situated,
25 whose duty it shall be to proceed, by himself or his deputy,
26 with all practicable dispatch to survey the said land in accor-
27 dance with the provisions of chapter one hundred and twelve
28 of the Code of Virginia, second edition, and within three
29 months thereafter, make out and deliver to the person entitled
30 thereto, a fair and true plat and certificate of survey as re-
31 quired by the said code, and the person to whom such plat and
32 certificate are delivered, shall within six months thereafter, re-
33 turn them to the Secretary of the State, and may demand and
34 shall receive from him, a receipt for the same.

35 3. No such plat and certificate of survey, shall be returned
36 to the Secretary of the State after the expiration of four years
37 from the date of this act.

38 4. In any case of caveat now pending in any court of this
39 State, the caveator may file in the office of the Secretary of
40 the State, a copy of such caveat, together with a copy of the
41 plat and certificate of survey on which the caveat is founded,
42 and thereupon no grant shall issue on such plat and certificate
43 of survey, until such caveat is tried and determined according
44 to the provisions of the said Code of Virginia.

45 5. Any person may enter a caveat in the office of the Sec-
46 retary of the State, against the issuing of a grant in the same
47 manner and for the same causes, for which a caveat might have
48

49 been entered in the office of the register of lands under the
 50 provisions of the said Code of Virginia, chapter one hundred
 51 and twelve, except so far as the grounds for caveat are remov-
 52 ed by this act.

53 6. To the person entering a caveat, the Secretary of the
 54 State shall furnish a certified copy thereof, and if he demand
 55 it, a certified copy of the plat and certificate of survey.

56 7. All caveats whether now pending, or hereafter entered
 57 under the provisions of this act, shall be proceeded within the
 58 manner prescribed by the said chapter one hundred and twelve
 59 of the said code.

60 8. Within not not less than six nor more than nine months
 61 after a right to a grant is complete in the manner provided for
 62 in the aforesaid chapter of the Code of Virginia and in this
 63 act, the Secretary of the State, shall cause to be made out to
 64 the party having the right, a grant to the following effect: "A.
 65 B., Governor of the State of West Virginia, to all to whom
 66 these presents shall come *greeting*: Know ye, that in consid-
 67 eration of the sum of ——— paid by ——— into the treasury
 68 of this State, there is granted by the said State unto the said
 69 ———, a certain tract or parcel of land containing ———
 70 acres, lying in the county of ———, &c., (describing the
 71 bounds of the land and the date of the survey) with the ap-
 72 purtenances, to the said ———, his heirs and assigns forever.—
 73 In witness whereof, the said A. B. Governor of the said State,
 74 has set his hand and caused the seal of the said State to be af-

75 fixed hereunto, at ——— on the ——— day of ———, in the
76 year ———, and of the State ———. A. B.”

77 9. The Secretary of the State shall deliver such grant to
78 the Governor, by whom it shall be signed and sealed with the
79 seal of the State, and returned to the Secretary of the State
80 who shall record the said grant, and the plat and certificate of
81 survey on which it is founded, in well bound books provided for
82 the purpose at the public charge. The Secretary of the State
83 shall certify the grant to have been registered, and then de-
84 liver it to the party to whom it is made, or to his order, or to
85 the bearer of the receipt given by him for the plat and certifi-
86 cate of survey upon which such grant is founded.

87 10. Sections fifty-two and fifty-three of chapter one hun-
88 dred and twelve of the Code of Virginia, second edition, are
89 hereby repealed.

90 11. The Secretary of the State shall be entitled to charge
91 and collect for his services the same fees that the said register
92 of the land office of Virginia would be entitled to receive for
93 like services as provided by the said Code of Virginia, to be
94 by the said secretary accounted for in like manner.

95 12. This act shall be in force from its passage.

HOUSE BILL No. 30.

A BILL TO PROVIDE FOR THE TRIAL OF OFFENCES
COMMITTED IN COUNTIES IN WHICH THE ADMIN-
ISTRATION OF JUSTICE MAY BE INTERRUPTED BY
WAR OR INSURRECTION.

Be it enacted by the Legislature of West Virginia,

1 1. When any county, or part of it, is in possession of armed
2 rebels or a public enemy, or is threatened with invasion, or war
3 or insurrection exists therein, so as to make it probable that the
4 jurisdiction of the Circuit Court could not, safely and without
5 interruption, be exercised therein, offences committed in such
6 county against the criminal laws of the State may be prosecu-
7 ted, tried and punished in another county, as hereinafter pro-
8 vided, and no question of jurisdiction as to the place of trial
9 shall be sustained by the Court. *Provided* that the venue may
10 be changed as in other cases.

11 2. It shall be the duty of the Judge for the Circuit to which
12 such county belongs, by warrant to be directed to, and execu-
13 ted by, any sheriff in the State, to cause persons charged with
14 felonies or misdemeanors committed in the said county, to be
15 arrested and brought before him at such convenient place in

16 any other county as he may appoint for the purpose; and
17 there, as the evidence may require, to commit or recognize;
18 them for trial in the Circuit Court of the last mentioned coun-
19 ty, or discharge them; and if he so commit or recognize
20 any person for trial, to recognize or cause to be summoned
21 such witnesses as he may think proper. The said warrant
22 and recognizances shall be returned forthwith to the clerk of
23 the Court before which the accused is to appear. The persons
24 so committed or recognized for trial may be indicted, tried,
25 convicted and punished as if the offences had been committed
26 in the county appointed for their trial as aforesaid.

27 3. And if a person charged with a felony or misdemeanor,
28 has been committed to the jail of any county in which, for the
29 causes mentioned in the first section of this act, it is probable
30 that the jurisdiction of the Circuit Court could not be safely
31 and without interruption exercised, it shall be the duty of the
32 Judge for the Circuit to which such county belongs, by warrant
33 to be directed and executed as aforesaid, to cause the person so
34 committed, with the papers in his case, including the indict-
35 ment, if any shall have been found against him, to be removed
36 to any other county in this State the said Judge may for that
37 purpose appoint; and the same proceedings may be had there-
38 upon in the Circuit Court of the last mentioned county as if
39 the offence had been committed and the indictment had been
40 found therein. If the papers in the case have been destroyed,

41 carried away or concealed so that the same cannot be produ-
42 ced in the Circuit Court appointed for the trial as aforesaid, the
43 best evidence of the contents thereof which the nature of the
44 case will allow shall be received in lieu thereof.

45 4. And where a felony or misdemeanor has been committed
46 in any county in which, for the causes aforesaid, it is probable
47 that the jurisdiction of the Circuit Court could not be safely
48 and without interruption exercised, and there is no Judge for
49 the Circuit to which such county belongs, or he shall refuse or
50 be unable to act, the authority specified in the preceding sec-
51 tions of this act, may be exercised by the Judge for any ad-
52 joining Circuit, with like effect to all intents and purposes.

53 5. This Act shall be in force from its passage.

HOUSE BILL No. 31.

A BILL FOR THE REORGANIZATION OF THE MILITIA.

ENROLLMENT.

Be it enacted by the Legislature of West Virginia,

1 1. Every white male citizen over the age of eighteen and
2 under forty-five, shall report himself for enrollment to the
3 commandant of the company in whose district he resides, and
4 upon failing to do so within ten days shall be subject to a fine
5 of not less than one nor more than five dollars.

GENERAL ORGANIZATION.

6 2. The militia of this State shall be organized into divisions,
7 brigades, regiments, battalions, and companies; there shall be
8 two divisions and eight brigades.

DIVISIONS AND BRIGADES.

9 3. The first division shall be composed of the first, second,
10 third and fourth brigades, to-wit: Hancock, Brooke, Ohio and
11 Marshall shall be the first brigade; Tyler, Wood, Ritchie,
12 Pleasants, Doddridge, Wirt and Wetzel the second brigade;
13 Monongalia, Marion, Harrison, Taylor and Preston the third
14 brigade; Morgan, Hampshire, Hardy, Pendleton, Pocahontas,
15 Webster, Randolph and Tucker the fourth brigade.

16 4. The second division shall be composed of the fifth, sixth,
17 seventh and eighth brigades, to-wit: Lewis, Upshur, Gilmer,
18 Calhoun, Braxton and Barbour shall be the fifth brigade;
19 Monroe, Greenbrier, Fayette, Clay and Nicholas the sixth

20 brigade; Kanawha, Mason, Cabell, Wayne, Jackson, Roane
 21 and Putnam the seventh brigade; Logan, Boone, Wyoming,
 22 McDowell, Mercer and Raleigh the eighth brigade.

REGIMENTS.

23 5. The several regiments of infantry as at present organi-
 24 zed, shall continue as now established, in the several counties
 25 and corporations, by the regimental metes and bounds hereto-
 26 fore organized, and where regiments are formed from battal-
 27 ions in adjoining counties; such battalions forming such regi-
 28 ments, shall be numbered and officered as regiments. The
 29 regiments and battalions as now established, shall be numbered
 30 as follows, to-wit: the regiment in Hancock county No. 1,
 31 Brooke No. 2, Ohio 161st regiment, No. 3, No.'s 4 and 5,
 32 No. 4 and 5, Marshall No. 6, Tyler No. 7, Wetzel No. 8,
 33 Pleasants No. 9, Wood No. 10, Ritchie No. 11, Doddridge No.
 34 12, Wirt No. 13, Monongalia 76th regiment No. 14, 140th
 35 No. 15, 178th No. 16, Marion 118th regiment No. 17, 147th
 36 No. 18, 176th No. 19, Harrison 11th regiment No. 20, 137th
 37 No. 21, 138th No. 22, Taylor No. 23, Preston 104th No. 24,
 38 148th No. 25, 173d No. 26, Morgan No. 27, Hampshire No.
 39 28, Pocahontas No. 29, Randolph No. 30, Tucker 31, Lewis
 40 192d regiment No. 32, 125th No. 33, Upshur No. 34, Gilmer
 41 No. 35, Calhoun No. 36, Braxton No. 37, Barbour 139th
 42 regiment No. 38, 169th No. 39, Clay No. 40, Fayette No. 41,
 43 Mason No. 42, Cabell No. 43, Wayne No. 44, Jackson No.
 44 45, Roane No. 46, Kanawha 80th regiment No. 47, 153d No.
 45 48, Putnam No. 49, Boone No. 50, Logan No. 51, Wyoming

46 No. 52, Raleigh No. 53, and any regiments that are now or-
 47 ganized and not numbered in this act, or that may hereafter
 48 be organized, shall be numbered in numerical order, as they
 49 may be reported to the Adjutant General.

OFFICERS.

50 6. There shall be a Major General for each division, a
 51 Brigadier General for each brigade, a Colonel, Lieutenant
 52 Colonel and Major for each regiment, a Captain, First Lieu-
 53 tenant, Second Lieutenant, five Sergeants and eight Corporals
 54 for each company.

55 7. If in any regiment there be no officer to order and su-
 56 perintend the election of officers, it shall be lawful for the
 57 board of supervisors of the county in which such regiment
 58 may be, to recommend to the Governor for each vacant com-
 59 pany therein, a suitable person as Captain thereof, and such
 60 person shall be commissioned as if he had been elected.

HOW VACANCY FILLED.

61 8. If any company, after having been duly ordered and no-
 62 tified, shall twice fail to meet and hold an election to supply
 63 any vacancy in the office of Captain or Lieutenant of such
 64 company, the commandant of the regiment, by and with the
 65 advice of his field officers, if any such there be, shall recom-
 66 mend to the Governor a suitable person to fill such vacancy,
 67 and if there shall be no field officers in the regiment, the su-
 68 pervisor of the township in which the company may be, shall
 69 recommend to the Governor a suitable person to fill such va-
 70

71 cancy, and the Governor upon receiving such recommendation
72 signed by such officer or supervisor, shall issue commissions
73 accordingly.

74 OATHS TO BE TAKEN.

75 9. Every person elected and commissioned to any office in
76 the militia, shall, before he enters upon the discharge of the
77 duties of the office to which he has been elected and commis-
78 sioned, take and subscribe the following oaths: "I do solemnly
79 (swear or affirm) that I will support the Constitution of the
80 United States and of the State of West Virginia. So help
81 me God." "I swear that I have not since the twentieth day
82 of June, eighteen hundred and sixty-three, fought in a duel,
83 the issue of which was, or probably might have been, the
84 death of either party, nor have I knowingly been the bearer
85 of any challenge or acceptance to fight a duel actually fought,
86 nor have I been engaged in a duel fought since said time.
87 So help me God." "I swear that I will discharge the duties
88 of my office to the best of my skill and judgment. So help
89 me God." When the oath is taken by a Major or Brigadier
90 General a certificate of the person administering the same
91 shall be obtained by the person taking the same, and be re-
92 turned by him to the Adjutant General. When taken by a
93 person elected or appointed to any other office of the Militia,
94 a certificate of the person administering the same, shall be ob-
95 tained by the person taking the same, and be delivered to the
96 clerk of the regiment, who shall record the same in the order
97 book of the regiment.

POWER OF GOVERNOR TO REMOVE OFFICERS AND WITHOLD COMMISSIONS.

98 10. The Governor shall have power to remove any officer of
99 the Militia, that now is or that may be hereafter commissioned,
100 and may refuse to commission any officer hereafter elected
101 upon satisfactory evidence that such officer is disloyal, intem-
102 perate or incompetent, or for any behaviour unbecoming an
103 officer.

OF MUSTERS, TRAINING, MUSIC, &c.

104 11. There shall be a muster of each regiment of Militia
105 of the line in each year, in April or May and in October or
106 November, of each company of the line in April and October.
107 The musters so prescribed shall not continue in each case
108 more than one day, and the commanding officer shall keep
109 the men on duty for two hours at least. Every officer and
110 soldier shall appear at the muster ground on the day ap-
111 pointed by 11 o'clock A. M.

TRAININGS.

112 12 There shall be two trainings in every year of all the
113 officers of each county. The said trainings of the officers of
114 the several counties shall be held at their respective Court
115 Houses. Each training shall continue three successive
116 days, and shall be held on the three days immediately pre-
117 ceding the regimental muster, and shall, where there are
118 more than one regiment in a county be conducted by the se-

119 nior Colonel of the county, and where there is but one regi-
 120 ment in the county, by the Colonel of such regiment, or if
 121 there be no commissioned Colonel in the regiment or regi-
 122 ments by the officer next highest in command. The Gover-
 123 nor may cause to be issued to the commandant of every regi-
 124 ment, arms and accoutrements, suitable and sufficient for the
 125 use of officers of such regimental trainings. Where there
 126 is more than one regiment in the same county, the senior
 127 Colonel of the county shall appoint the regimental musters and
 128 trainings of such regiments, and where there is but one reg-
 129 iment in a county, the Colonel of such regiment, if such there
 130 be, if none the next officer highest in rank shall appoint.
 131 At the spring training it shall be the duty of the officer in
 132 command to inspect all arms in the hands of the Militia and
 133 report the condition of the same with all instances of abuse
 134 to the Adjutant General, and for a failure to so report he
 135 shall be fined not less than———nor not more than———
 136 dollars. In no case shall the Militia of any county be requir-
 137 to go out of such county to attend any muster in time of peace.

NOTICE OF MUSTERS.

137 $\frac{1}{2}$ 13 Notices of regimental and company musters shall be
 138 given by commandants of companies, by a notice to be posted
 139 at three separate public places in the respective company dis-
 140 tricts, at least ten days previous to such musters, or by ad-
 141 vertisement in a local newspaper for the same length of time.

142 14 When the commissioned officers in any county are not
 143 sufficient in Number to be properly instructed in the drill of
 144 the battalion, the senior officer of the county may require any
 145 part of the non-commissioned officers of such county to attend
 146 the trainings of officers. Any non-commissioned officer who shall
 147 be trained with the commissioned officers of this state for
 148 seven successive years, although such training may not all
 149 have been in the same county, shall be exempt from the per-
 150 formance of ordinary Militia duty, but shall be liable to be
 151 drafted or detailed for active service.

152 15. Any officer failing to attend at the time and place of
 153 training, without reasonable excuse, to be judged by the
 154 court of inquiry, shall forfeit and pay for each day he shall
 155 fail so to attend, a fine of five dollars.

MUSIC FOR TRAININGS.

156 16. The Colonel or officer conducting the training of offi-
 157 cers, shall employ one drummer and one fifer to attend each
 158 training of officers, who shall each be allowed two dollars
 159 per day for their services.

MUSIC FOR OTHER MUSTERS, &C.

160 17. The commandants of regiments and of companies, in-
 161 cluding volunteer as well as other companies, shall be author-
 162 ized to employ each one drummer and one fifer or bugler to
 163 attend their respective musters, who shall be paid each two
 164 dollars per day for their services, but no company will be al-

165 lowed for a fifer and drummer for attending regimental mus-
 166 ters. The commandant of each regiment may procure for
 167 the use of his regiment, and for the drum and fife majors at-
 168 tached thereto, once in ten years, if necessary, one drum and
 169 one fife, upon which he shall cause to be marked the name of his
 170 county and regiment; in like manner he may procure one bu-
 171 gle for each company of cavalry attached to his regiment.
 172 When any of said equipments require repairs, the command-
 173 ant of the regiment may procure the same to be done, and
 174 submit all accounts for such repairs to the regimental court
 175 of inquiry, which may make a reasonable allowance for the
 176 same. When the court allows for new equipments, it shall
 177 certify that no such equipments or repairs have been pur-
 178 chased by the regiment within the preceding ten years.
 179 Upon such allowance (and certificate in case of new equip-
 180 ments,) the said commandants may draw upon the Auditor of
 181 Public Accounts to be paid out of the militia fine fund, for
 182 the amount thereof.

GOVERNOR MAY IN TIME OF PUBLIC DANGER, WAR, INVASION, &C.,
 &C., ORDER EXTRA MUSTERS.

183 18. The Governor may in time of public danger, war, in-
 184 vasion or insurrection, order and detail the militia of the
 185 State to drill or muster at other times than those speci-
 186 fied in this Act, and any officer, non-commissioned officer,
 187 musician, or private refusing to obey such orders, shall be
 188 subject to the same penalties as prescribed by law for failure
 189 to attend musters or drill.

REVIEWS.

190 19. The Brigadier Generals shall each review annually,
191 at least two of the regiments of their respective brigades,
192 and shall continue those reviews until the whole brigade shall
193 have been reviewed. They shall report to the Governor any-
194 thing which, in the course of these reviews may seem proper
195 and necessary to be reported.

DISOBEDIENCE OR MISBEHAVIOR.

196 20. Any officer guilty of disobedience or other misbeha-
197 vior when on duty, or guilty at any time of conduct unbe-
198 coming his place, may be put under arrest by his command-
199 ant, or may be reported to the proper court of inquiry and
200 be subject to the penalty incurred by an officer of his rank
201 for failing to perform a duty, for which no specific penalty is
202 provided, and upon recommendation of said court, the Gov-
203 ernor may remove him from office.

ARMS, ACCOUTREMENTS, &C., &C.

204 21. Any person found guilty of selling, disposing of, hi-
205 ding, secreting, detaining or refusing to give up any of the
206 arms, accoutrements, camp equipage or munitions of war be-
207 longing to the State, or who shall wilfully injure any of the
208 same, or any arsenal or armory belonging to or rented by the
209 State, or owned or rented by any company, battalion or reg-
210 iment of the State, shall, on conviction thereof, be fined in a
211 sum not exceeding two hundred dollars, or shall be imprisoned
212 in the county jail for the term of six months, or both, at the
213 discretion of the court.

RETURNS.

214 22. On the first day of the training of officers, the command-
215 ant of each company in every regiment shall deliver to the
216 Adjutant a fair and correct return of the strength and con-
217 dition of their respective companies, and of the number and
218 condition of public arms and equipments, if any, in their hands.
219 The Adjutant shall consolidate these returns, and on the last
220 day of the training, shall deliver to the Colonel or officer in
221 command of his regiment, a fair and correct return of his
222 regiment. If the commandant of any company fail to make
223 the required return, or if any company be without officers,
224 the Adjutant shall ascertain, as nearly as possible, the strength
225 of such company, and include it in the return of the regi-
226 ment. When the training of officers of any regiment shall
227 have been finished, the Colonel or officer in command of the
228 regiment, shall transmit to the Adjutant General within thirty
229 days, the return of his regiment.

230 23. The Adjutant General shall consolidate the returns
231 of each brigade, and on or before the first day of December,
232 make return to the Governor of the strength and condition
233 of the militia, and of the ordnance, ordnance stores, arms,
234 accoutrements and ammunition belonging to the State. The
235 forms of all returns of the militia shall be prescribed by the
236 Adjutant General, and be furnished by him to the command-
237 ants of brigades and regiments when necessary.

HOW OFFICERS SELECTED TO COMMAND, WHEN A DETACHMENT IS OR-
DERED INTO SERVICE.

238 24. When any detachment shall be called into service from

239 any division, brigade or regiment, the officers to command
 240 such detachment from such division, brigade or regiment,
 241 shall decide by lot who shall have the command. If a volun-
 242 teer force is accepted from different parts of the State, the com-
 243 panies accepted shall be under the command of their respective
 244 officers; but the Governor shall detail or appoint the necessary
 245 field officers therefor. When a Brigadier or Major General's
 246 command is called out, the Governor shall order one of the
 247 Brigadier or Major Generals of the State, to command.

FINE FOR FAILING TO APPEAR AT RENDEZVOUS, TO BE PLACED FORTH-
 WITH WITH OFFICER FOR COLLECTION.

248 25. When any person liable to duty, shall be drafted or
 249 ordered into active service, and fail to appear at the place of
 250 rendezvous or march when order d, and shall be fined for
 251 such failure according to the provisions of this Act, such fine
 252 shall be forthwith placed in the hands of the proper officer
 253 for collection.

FINES.

254 26. Tickets for all fines imposed by the battalion and reg-
 255 imental courts of inquiry, shall be made out by the clerks of
 256 those courts and placed in the hands of a constable or collec-
 257 tor of the revenue of the township in which the person
 258 against whom the fine is assessed resides, for collection, before
 259 the first day of January following the assessment of such
 260 fines, together with an alphabetical list of such tickets, at the
 261 foot of which the clerk shall take from such constable or col-
 262 lector, of the revenue, a receipt for the tickets contained

263 therein, and shall forthwith transmit to the Auditor of Public
 264 Accounts a certified copy of such last receipt. If there be
 265 no tickets for fines which could have been placed in the hands
 266 of the constable or collector of the revenue, the clerk shall
 267 certify the fact to the Auditor. The officer in whose hands
 268 the fines are placed for collection, may make immediate dis-
 269 tress for said fines, and shall collect, account for, and pay
 270 the same into the treasury on the fifteenth of December
 271 next after the said tickets are so delivered; and any consta-
 272 ble or collector of the revenue failing or refusing to receipt
 273 therefor, as provided in this section, shall forfeit not less than
 274 one hundred nor more than five hundred dollars.

MILITIA FINE FUND, HOW CLAIMS ARE CERTIFIED AND PAID.

275 27. All claims upon the militia fine fund allowable by the
 276 regimental courts of inquiry, shall be certified by the clerk
 277 of the regimental court allowing the same, and shall be coun-
 278 tersigned by the commandant of the regiment, and the said
 279 clerk shall forthwith transmit to the Auditor a list of all
 280 claims so allowed, or if there be none, he shall certify that
 281 fact. Allowances by regimental courts of inquiry, shall be
 282 paid by the constable or collector of the revenue with whom
 283 the tickets are placed for collection, on or before the first day
 284 of October after the order granting the same, out of any
 285 money in his hands arising from militia fines.

ALLOWANCES OUT OF FUND.

286 28. There shall be allowed by the respective regimental

287 courts of inquiry and paid out of the militia find fund, to the
 288 clerk of every regimental court of inquiry for attendance on
 289 each battalion court of inquiry, not exceeding five dollars; for
 290 each regimental court of inquiry, not exceeding five dollars;
 291 for making out the list or lists of tickets placed in the hands
 292 of a constable or collector of the revenue, in any year five
 293 dollars, and for the copies thereof certified to the Auditor,
 294 five dollars. To the Provost Marshal for each day he shall
 295 attend the courts of inquiry, two dollars. To the Adjutant
 296 of every regiment for attending the regimental musters and
 297 the trainings of the officers, three dollars for each daily at-
 298 tendance. To the Adjutant or any other officer of the line,
 299 ordered to perform the duty, for enrolling, notifying and
 300 mustering any company which has no officers, and reporting
 301 delinquents in said company, two dollars per day whilst actu-
 302 ally employed in such duty; but not more than six dollars
 303 shall be allowed for any company in one year.

304 REMEDY OF CLAIMANT AGAINST COLLECTING OFFICER.

305 29 If any constable or collector of the revenue shall fail to
 306 pay any claim or allowance properly certified, having funds
 307 in his hands arising from fines sufficient therefor, any Justice
 308 of the Peace of the county in which he resides, may after ten
 309 days notice from the person holding said claim render
 310 judgment against him for the amount thereof with costs.

311 30 There shall be allowed to the several constables and
 312 collectors of the revenue for collecting and accounting for all
 313 Militia fines, and fines for extra musters of volunteer compa-

314 nies, a commission of ten per centum on the amount collected,
 315 and for collecting and accounting for fines assessed under the
 316 by laws of volunteer companies, not less than ten nor more
 317 than fifteen per centum as the commandants of said compa-
 318 nies shall deem proper.

FINE FOR FAILING TO APPEAR AT RENDEZVOUS.

319 31 By a non-commissioned officer or soldier for failing to
 320 appear at any rendezvous when lawfully ordered to do so, not
 321 less than ten nor more than five hundred dollars, besides be-
 322 ing enrolled in the class destined to perform the next tour of
 323 duty, for failing at any muster to go into the ranks when re-
 324 quired, or to execute any order given, not having a reasona-
 325 ble excuse, not less than five nor more than twenty dollars,
 326 and for failing to perform any other duty required by law,
 327 not less than seventy-five cents nor more than ten dollars.—
 328 Fines of non-commissioned officers and privates for failing to
 329 attend musters or meetings required by law, shall be not less
 330 than seventy-five cents and not more than two dollars. Tick-
 331 ets for all fines imposed by the battalion and regimental courts
 332 of inquiry shall be placed in the hands of a constable or col-
 333 lector of the revenue for collection on the first day of Janua-
 334 ry in each year.

COURTS MARTIAL.

335 32 Before any court martial shall proceed to the trial of
 336 any officer, the judge advocate shall administer to the mem-
 337 bers thereof the following oath: "I do swear that I will

338 faithfully and impartially try the matter now depending be-
339 tween the State of West Virginia and A. B., and determine
340 it to the best of my judgment according to law and the evi-
341 dence, and that I will not disclose the vote or opinion of any
342 member of this court, unless required to give evidence thereof
343 in a court of justice or in due course of law. So help me
344 God.”

345 33. The 9th section of chapter 22 of the Code of Virginia,
346 second edition, and the 1st, 2d, 3d, 4th, 5th, 6th, 8th, 15th
347 and 27th sections of chapter 23, the 1st, 3d, 10th, 11th and
348 19th sections of chapter 24, 13th section of chapter 25, sec-
349 tions 1, 2, and 3 of chapter 28, section 2 of chapter 29, sec-
350 tions 2, 13, 20, 23, 24, 25, and 26 of chapter 30, section 20
351 of chapter 31, and chapters 33 and 34, are hereby repealed,
352 and also all Acts or parts of Acts inconsistent with this Act.
353 34. This Act shall be in force from its passage.

HOUSE BILL No. 32.

A bill accepting the conditions of the act of Congress of July 5th, 1862, donating lands to the several States for the endowment of Agricultural Colleges.

Be it enacted by the Legislature of West Virginia:

1 1. That whereas, the Congress of the United States,
2 by an act approved July 5th, 1862, entitled "An Act
3 donating public lands to the several States and Terri-
4 tories which may provide colleges for the benefit of ag-
5 riculture and the mechanic arts," did grant to the sever-
6 al States for the purpose mentioned in the title of
7 the act, a quantity of land equal to thirty thousand
8 acres for each Senator and Representative in Congress
9 to which the States are respectively entitled by the
10 apportionment under the census of 1860, subject to cer-
11 tain conditions contained in the body of the act: And
12 whereas, it is further enacted in the act aforesaid "that
13 no State shall be entitled to the benefits of this act un-
14 less it shall express its acceptance thereof by its Leg-
15 islature within two years from the date of its approval
16 by the President," Therefore,

17 2. Be it enacted by the Legislature of West Vir-
18 ginia, That the grant of lands contained in the said

19 act of Congress is hereby accepted by the State of West
20 Virginia, subject to the several conditions and provis-
21 ion contained in the said act.

22 3. Be it further enacted, That all moneys derived
23 from the sale of lands obtained under this grant, or from
24 the sale of land scrip as therein provided, shall be in-
25 vested in the stocks of the United States or of the
26 States, or some other safe stocks, yielding not less than
27 five per centum upon the par value of said stocks ; and
28 that the moneys so invested shall constitute a perpet-
29 ual fund, the capital of which shall remain forever un-
30 diminished, (except so far as may be provided for in
31 this act,) and the interest of which shall be inviolably
32 appropriated to the endowment, support and mainte-
33 nance of a college in which the leading object shall be,
34 without excluding other scientific and classical studies,
35 and including military tactics, to teach such branches
36 of learning as are related to agriculture and the mechan-
37 ic arts, in such manner as the Legislature may prescribe
38 in order to promote the liberal and practical education
39 of the industrial classes in the several pursuits and pro-
40 fessions in life.

41 4. If any portion of the fund invested as provided by
42 the foregoing section, or any portion of the interest

43 thereon, shall, by any action or contingency, be dimin-
44 ished or lost, it shall be replaced by the State from its
45 treasury, so that the capital of the fund shall remain
46 forever undiminished, and the annual interest shall be
47 regularly applied without diminution to the purposes
48 mentioned in the third section of this act; except that
49 a sum not exceeding ten per centum of the amount re-
50 ceived by the State, under the provisions of the act of
51 Congress aforesaid, may be expended for the purchase
52 of lands for sites or experimental farms, whenever au-
53 thorized by the Legislature.

54 5. No portion of said fund, nor the interest thereon,
55 shall be applied directly or indirectly, under any pre-
56 tence whatever, to the purchase, erection, preservation
57 or repair of any building or buildings.

58 6. The State shall provide for the proper organiza-
59 tion of a college as described in the third section of this
60 act, within five years from the date of the passage of
61 the act of Congress aforesaid.

62 7. An annual report shall be made regarding the
63 progress of the college, recording any improvements
64 and experiments made, with their cost and results, and
65 such other matters, including State, industrial, and eco-
66 nomical statistics as may be supposed useful; one copy

67 of which shall be transmitted by mail free to each of
68 the other colleges which may be endowed under the pro-
69 visions of the aforesaid act of Congress, and also one
70 copy to the Secretary of the Interior.

71 8. This act with the preamble thereto, shall be cer-
72 tified by the Governor, under the seal of the State to
73 the President of the United States and the Secretary
74 of the Interior.

75 9. This act shall be in force from and after its pas-
76 sage.

HOUSE BILL No. 33.

A BILL TO PREVENT THE SALE AND USE OF LIQUORS ON ELECTION DAYS.

Be it enacted by the Legislature of West Virginia :

1 1. It shall be unlawful for any person or per-
2 sons, on general election days in this State, or
3 on any special election day in any county in
4 this State, to sell or to offer to sell to, or to
5 treat, or offer to treat gratuitously any elector
6 entitled to vote, to any intoxicating liquors or
7 drinks. And any person or persons who shall
8 attempt to sell or offer to sell such liquors or
9 drinks to any such elector, or shall offer to him
10 gratuitously such liquors or drinks on any
11 election day in this State, shall be deemed guilt-
12 ty of a misdemeanor and subject to a fine of
13 not less than ——— nor more than ——— for
14 each offence; provided, however, that nothing
15 in this act shall interfere with the use of spir-
16 ituous liquors when recommended by a physi-
17 cian as a remedy in disease or accident,

18 2. This act shall be given in charge to the
19 grand juries at every regular term of the cir-
20 cuit courts.

21 3. This act shall be in force from its passage.

HOUSE BILL No. 34.

A BILL RESPECTING THE LOYALTY OF MINISTERS OF THE GOSPEL.

Be it enacted by the Legislature of West Virginia,

1 1. That all ministers of the Gospel, whose
2 loyalty to the Government of the United States
3 and this State shall be questioned, shall, before
4 preaching to or instructing a congregation, be
5 required to make oath or affirmation that he
6 will support the Constitution of the United
7 States and of this State, and failing so to do,
8 shall be subject to a fine of not less than—
9 dollars nor more than—dollars for every such
10 offence.

11 2. This act shall be in force from and after
12 its passage.

HOUSE BILL No. 35.

**A BILL MAKING AN APPROPRIATION FOR
EXPENSES OF THE LEGISLATURE.**

Be it enacted by the Legislature of West Virginia:

1 1. Ten thousand dollars are hereby appropri-
2 ated for expenses of the Legislature at its pres-
3 ent session.

4 2. This act shall take effect from its passage.

HOUSE BILL No. 36.

**A BILL PROVIDING FOR REBUILDING THE
BRIDGE ACROSS BUFFALO CREEK AT
BARNSVILLE IN MARION COUNTY.**

Be it enacted by the Legislature of West Virginia:

1 1. That the Superintendent of the Maryland
2 and Ohio river turnpike and two citizens of
3 Marion county, to be appointed by the Gover-
4 nor, be and are hereby authorized to act as
5 commissioners to contract for and superintend
6 the rebuilding of the bridge across Buffalo
7 creek at Barnsville, on the Maryland and Ohio
8 river turnpike; a majority of said commission-
9 ers can act.

10 2. Be it further enacted, that the sum of
11 eighteen hundred dollars, be and is hereby ap-
12 propriated out of any money in the Treasury
13 not otherwise appropriated for the rebuilding
14 of the said bridge, and for the purpose of pay-
15 ing for the said work as it progresses. The said
16 commissioners are authorized to draw on the
17 Auditor, who is hereby required to pay such
18 orders to the amount of the said appropriation.

19 3. This act shall be in force from its passage.

• **HOUSE BILL No. 37.**

**A BILL CONCERNING THE BOND OF THE
SURVEYOR OF LANDS.**

Be it enacted by the Legislature of West Virginia:

1 1. Every Surveyor of lands shall give bond to
2 be approved by the Circuit Court of the county,
3 or the Judge thereof in vacation, in such penal-
4 ty, not less than one thousand nor more than
5 three thousand dollars as the said Court or Judge
6 shall deem sufficient.

7 2. This act shall be in force from its passage.

HOUSE BILL No. 38.

A BILL TO PROVIDE FOR THE FORFEITURE OF PROPERTY IN THIS STATE BELONGING TO THE ENEMIES THEREOF.

1 Whereas certain persons, assuming to act in the name of the
2 people of Virginia, have attempted to repeal the ratification
3 of the Constitution of the United States, and to deprive the
4 people of West Virginia of the protection to which we are
5 entitled under that instrument; and have endeavored by force
6 of arms, and by pretended ordinances and acts of legislation
7 threatening forfeiture and confiscation, imprisonment and
8 death, to subject us to the authority of the so-called Con-
9 federate States of America; and whereas, because we have
10 been unwilling to aid them in their effort to overturn the gov-
11 ernment under which we have heretofore lived and prospered,
12 they have waged war against us, have encouraged conspiracies
13 and insurrections in our midst, have excited desperate and un-
14 principled men among us to acts of robbery and murder, have
15 declared us traitors and alien enemies, and so far as they had

16 power, have subjected to confiscation or forfeiture all property
17 within this State, belonging to those who support and uphold
18 the lawful government of the land: therefore—

Be it enacted by the Legislature of West Virginia, as follows:

19 1. Every person who shall aid or abet the so-called Confed-
20 erate States of America, or the rebel State Government at
21 Richmond, in any invasion of this State or hostile action
22 against the same; or who shall conspire with others to estab-
33 lish or maintain within this State, or any part thereof, the au-
24 thority of the said Confederate States, or of the said rebel
25 State government; or who shall accept, hold or exercise any
26 office, commission or authority under the said Confederate
27 States or the said rebel State government, shall be deemed for
28 the purposes of this act, an alien enemy of this State; Pro-
29 vided, That any person charged with being such alien enemy,
30 may show in his defence that he acted under duress, or just
31 fear of life, limb or personal liberty.

32 2. All the estate, real and personal, of such alien enemy,
33 which may be found in this State, including all lawful de-
34 mands of such alien enemy against any person residing there-
53 in, or any corporation having a place of business in the same,

36 shall be forfeited to the use of this State, subject, as herein-
37 after provided, to the just debts of such alien enemy.

39 3. It shall be the duty of every circuit court, upon its being
40 made to appear that there is just cause to believe that
41 an alien enemy has property or claims subject to forfeiture as
42 aforesaid, to appoint some proper person a commissioner to take
43 possession of, collect and administer the estate of such alien
44 enemy, pursuant to this act. But of every motion for the
45 appointment of such commissioner, the prosecuting attorney for
46 the county where the motion is made, shall have reasonable
47 notice; and the court, in its discretion, may also require rea-
48 sonable notice to be served on the attorney general, or any
49 parties interested, by publication or otherwise; and award
50 costs for or against any party as may be right and proper. No
51 such motion shall be made in the circuit court of any county,
52 unless the property or claims so subject to forfeiture, or the
53 greater part thereof in value be in such county.

54 4. It shall be the duty of the prosecuting attorney, and at-
55 torney general, having notice, to see that the interest of the
56 State is duly protected in regard to every such motion and all
57 other legal proceedings under this act.

58 5. Every commissioner so appointed shall take the oaths
59 prescribed by the first and second sections of the act passed
60 June 26, 1863, entitled "An Act concerning oaths and affir-
61 mations;" and give bond, to be approved by the court which
62 appointed him, in a penalty equal, at the least, to the full val-
63 ue of the estate to be administered. He shall cause an inven-
64 tory and appraisement of the estate to be made and filed, and
65 shall state, return and settle his accounts, in like manner as
66 is required by law respecting the estates of persons dying in-
67 testate. The compensation to be allowed the commissioner
68 shall be the same as that of an administrator. In reference
69 to the personal estate, including debts and claims, of the alien
70 enemy, committed to his hands to be administered, the com-
71 missioner shall, unless herein otherwise provided, have the
72 same rights and authority, and be subject to the same liabili-
73 ties, as a personal representative of a deceased person in ref-
74 erence to the estate he represents; and all laws regulating the
75 administration of the estates of deceased persons, shall, so
76 far as they are consistent with this act, be deemed applicable
77 to estates liable to forfeiture under this act.

78 The commissioner may sue and be sued by the name and
79 style of "A. B. commissioner of C. D. an alien enemy."

80 7. The commissioner shall take possession of all real estate
81 of such alien enemy, within this State, and lease, manage,
82 sell and dispose of the same under direction of the court
83 which appointed him. He may convey any of such real estate,
84 but no sale or conveyance thereof shall be valid until reported
85 to and confirmed by the said court. The conveyance of real
86 estate by a commissioner appointed and qualified as aforesaid,
87 shall, when confirmed by the court which appointed him, pass
88 to the grantee, all the right, title and interest therein of the
89 person named as an alien enemy in the order appointing such
90 commissioner; and such conveyance shall not be impeached or
91 invalidated by reason merely of any irregularity of proceed-
92 ing.

93 8. No sale of personal estate made by any such commis-
94 sioner, or any payment made to him, shall be impeached or
95 invalidated by reason merely of any irregularity of pro-
96 ceeding.

97 9. The court which appointed the commissioner may at
98 any time, if it appear that the person named as an alien ene-

99 my in the order of appointment was not justly charged as
100 such, or for any other good cause shown, revoke such order
101 and annul the authority of the commissioner; but such order,
102 until so revoked, shall be deemed valid to all intents and pur-
103 poses, and no conveyance or sale *bona fide* made shall be in-
104 validated by any subsequent revocation of the authority of
105 the commissioner.

106 10. No such commissioner shall pay any claim against the
107 estate he represents, until the same be exhibited to the prose-
108 cuting attorney for the county where such commissioner was
109 appointed, and such attorney being satisfied of the justice
110 thereof, shall have endorsed his approval thereon. The pros-
111 ecuting attorney, upon his account thereof verified by his
112 affidavit, shall be allowed out of the estate, one dollar for
113 every hour he shall necessarily be employed in investigating
114 claims presented against such estate. But the commissioner
115 may reject a claim though it was approved by the prosecu-
116 ting attorney; and any claimant, whose claim has been, in
117 whole or in part, disapproved by the attorney or rejected by
118 the commissioner, may sue for and recover the amount unpaid
119 against such commissioner out of the assets, if any, remain-
120 ing in his hands to be administered.

121 11. No claims shall be approved or paid, if the claimant
122 be an alien enemy, unless such claim be presented on behalf
123 of a commissioner appointed under this act to administer the
124 estate of such alien enemy.

125 12. The commissioner, on his appointment, shall give no-
126 tice in like manner as an executor or administrator, for all
127 persons having claims against the estate he represents, to
128 present the same to him properly authenticated or proved,
129 within six months from the date of his appointment. All
130 just claims against the said estate shall be paid ratably and
131 without preference to one over another, if the estate be not
132 sufficient to pay the whole; but a commissioner, who, after
133 the said six months, distributes the money in his hands
134 among the claims theretofore presented to him properly au-
135 thenticated or proved, shall not be liable for any demand
136 against the estate, in whole or in part, unless before such dis-
137 tribution he had notice thereof.

138 13. Every commissioner shall within twelve months after
139 his appointment, and once in every six months thereafter, un-
140 til the estate he represents be fully administered and settled
141 cause his account therewith to be stated and settled; and

142 when the balance in his hands, if any, is ascertained by, or
143 under direction of the proper court, shall, within thirty days
144 thereafter, pay such balance into the treasury of the State,
145 unless the court, for good cause shewn, otherwise order. And
146 if any claim against the estate remain unpaid which the as-
147 sets remaining in the hands of the commissioner shall not be
148 sufficient to satisfy, the Legislature, on petition of the claim-
149 ant, shall cause justice to be done out of the money received
150 into the treasury from such estate, so far as the same may be
151 sufficient.

152 14. When any settlement of the account of a commissioner
153 appointed under this act is returned to the clerk's office of
154 any court, and the balance due thereon is ascertained as
155 aforesaid, it shall be the duty of the said clerk within thirty
156 days to transmit to the Auditor his certificate of the amount
157 in the hands of such commissioner payable into the treasury
158 of the State. If any clerk fail herein, he shall forfeit one
159 hundred dollars.

160 15. If any commissioner appointed under this Act fail to
161 cause his account to be stated and settled as aforesaid, or to
162 pay as aforesaid, any amount he may have in his hands pay-

163 able into the treasury of the State, he and his sureties shall
164 be liable for the principal sum in arrear, with interest thereon
165 at the rate of fifteen per centum, per annum, from the time
166 such payment should have been made, until paid, and costs,
167 to be recovered as money due the State is recoverable from
168 sheriffs and their sureties.

169 16. And whereas many persons who, on or after the sev-
170 enteenth day of April, eighteen hundred and sixty-one, resi-
171 ded within what is now the State of West Virginia, have de-
172 serted their homes and are actively engaged in aiding the so-
173 called Confederate States of America, and the rebel State
174 government at Richmond in their attempt to subjugate the
175 good people of this State, but in consequence of the war,
176 evidence of their rebellious and criminal acts cannot be ob-
177 tained: *It is therefore hereby further enacted*, That it shall
178 be lawful for the Governor, from time to time, to issue his
179 proclamation commanding any person or persons named
180 therein, who, he may have good cause to believe, have so de-
181 serted their homes and are engaged as aforesaid, to return to
182 their former places of abode, and take the oath to support the
183 Constitution of the United States and of this State, within

184 sixty days after the date of such proclamation, and thereaf-
185 ter demean themselves as good citizens of this State, under
186 penalty of being considered alien enemies—which proclama-
187 tion shall be published in some newspaper printed at the seat
188 of government, and in such other newspaper or newspapers
189 as the Governor may direct. And after the expiration of
190 the said sixty days, the production of a copy of such procla-
191 mation certified by the Secretary of the State, under the less
192 seal of the State, and affidavit of such proclamation having
193 been published as aforesaid in some newspaper printed at
194 the seat of government, shall be *prima facie* evidence that
195 the person or persons thereby commanded to return to their
196 former places of abode, are alien enemies within the meaning
197 of this act; unless it be shown that they have so returned and
198 taken the oath above mentioned.

199 17. Every sale, conveyance or transfer of property, real
200 or personal, or assignment or payment of a debt, and every
201 encumbrance or lien created on any property or debt, and
202 every act done or contract entered into, with intent to evade
203 the forfeiture of any property or claim under this act, or to
204 secure the same, or the price or proceeds thereof, in whole or

205 in part, to, or for the benefit of, any alien enemy, shall be
206 void.

207 18. It shall be lawful for the Governor, whenever he shall
208 have good cause to believe that any property within this State
209 belonging to an alien enemy has been, or is about to be sold,
210 transferred conveyed, removed or secreted, with intent to
211 evade the forfeiture thereof, or secure the same, or the price
212 or proceeds thereof, in whole or in part, to, or for the benefit
213 of any alien enemy, to cause such property to be seized and
214 safely kept until it can be delivered to a commissioner au-
215 thorized to administer the estate of the alien enemy to whom
216 such property belonged.

217 19. In any suit at law or in equity before a court of rec-
218 ord, it shall be a good plea or answer, that the plaintiff was,
219 at the commencement of the suit, an alien enemy of this
220 State, within the meaning of this Act; or if the suit be be-
221 fore a justice, the same matter may be proved in defense of
222 the action, on reasonable notice given to the plaintiff or his
223 agent or filed with the justice. On any motion in a court of
224 record, if, after reasonable notice given to the plaintiff or his
225 attorney, or filed with the clerk of such court, that such a de-

226 fence would be made, it be shown to the satisfaction of the
227 court, that the plaintiff in the motion is an alien enemy
228 within the meaning of this Act, such motion shall be there-
229 upon dismissed by the court. And the circuit court having
230 jurisdiction, shall, on bill in chancery and proper evidence in
231 support thereof, enjoin the execution of any judgment, de-
232 cree or deed of trust, but so far only as it may appear that
233 the same is about to be executed for the benefit of any per-
234 son who is an alien enemy within the meaning of this Act.
235 Nothing contained in this section shall, however, be construed
236 to interfere with or prevent the recovery of any property or
237 claim by or in behalf of any commissioner appointed under
238 this Act.

239 20. This Act shall be in force from its passage.

HOUSE BILL No. 39.

AN ACT TO AMEND AN ACT PASSED BY THE GENERAL ASSEMBLY OF VIRGINIA. FEBRUARY 19TH, 1856, ENTITLED AN ACT TO INCORPORATE THE CITIZENS FIRE, MARINE, AND LIFE INSURANCE COMPANY OF WHEELING.

Be it enacted by the Legislature of West Virginia:

1 1. An Act passed by the General Assembly of Virginia,
2 February 19th, 1856, entitled an Act to incorporate the Citi-
3 zens Fire, Marine, and Life Insurance Company of Wheeling,
4 is hereby amended so that the first and second sections in said
5 act shall read as follows :

6 1. Be it enacted by the General Assembly, That Henry
7 Moore, Morgan Nelson, William McCoy, and A. Allen How-
8 ell, together with such other persons as may hereafter be asso-
9 ciated with them and their successors, the holders of the capi-
10 tal stock herein after authorized to be raised, shall be and
11 they are hereby constituted and made a body politic and cor-
12 porate, under the name and style of the Citizens Fire, Marine
13 and Life Insurance Company of Wheeling, or the Citizens
14 Insurance Company of Wheeling, and by either name or style,
15 are invested with all the rights, powers and privileges confer-

16 red and made subject to all the rules, regulations and restric-
17 tions imposed by the Code of Virginia, applicable to such corpo-
18 rations, and not inconsistent with the provisions of this Act.

19 2. The capital stock of said company shall not be less than
20 ten thousand dollars; nor more than five hundred thousand
21 dollars, divided into shares of the par value of fifty dollars
22 each. The said capital stock shall be payable by each stock-
23 holder, at such time or times as it may be called for by the
24 board of directors of the company, and in such proportions as
25 they may deem necessary; due notice of every such call to be
26 given by advertisement published in some newspaper printed
27 in the city of Wheeling; each stockholder, when required so
28 to do by the said board of directors, shall give bond with good
29 and approved personal or real estate security, in a penalty
30 equal to the par value of the stock held by such stockholder,
31 payable to said company, and conditioned for the prompt pay-
32 ment to said company, on every such call thereafter made, un-
33 til the par value of the stock held by such stockholder shall
34 have been fully paid to said company; and if any stockholder
35 shall fail to pay any call so made by the board of directors
36 upon such share or shares owned or held by him, within twenty
37 days after said call shall have been made under this section,

38 then shall the amount of said call, with interest from the time
39 the same was payable, and five per cent. damages thereon, be
40 recovered by motion in the name of said company, upon not
41 less than ten days notice, in any court of record in the county
42 or place of residence of said stockholder; judgment may in
43 like manner be rendered in favor of said company against the
44 obligor or obligors, or any or either of them, of every bond
45 taken under this section, upon the like notice of such motion;
46 the said board of directors shall from time to time carefully
47 examine said bonds, and may at any time require any share-
48 holder to give a new bond with other and approved security,
49 in such penalty and with such conditions as the board of di-
50 rectors may require. Every stockholder who shall fail to give
51 the bond in this section mentioned, or a new bond in lieu of
52 one originally given, within twenty days after the same shall
53 have been required by the board of directors, the whole bal-
54 ance which may be unpaid upon his stock, with the interest
55 thereon, may be recovered by motion as aforesaid, or such
56 shares of stock, may after twenty days notice in some news-
57 paper published in the city of Wheeling, of the time and place
58 of sale, be sold at public auction for ready money, and trans-
59 ferred to the purchaser by the President and Secretary of the

60 company, and after the payment of the expenses attending
61 the sale and all dues to said company, the balance, if any,
62 shall be paid over to said stockholder. No stockholder shall
63 receive a dividend, or sell or transfer his stock in this compa-
64 ny so long as he shall be indebted to said company, either as
65 principal or surety, on any note, bond or otherwise due or to
66 become due, until such indebtedness or liability is paid, or se-
67 cured to be paid to the satisfaction of the said board of direc-
68 tors. At all meetings of the stockholders of this company for
69 the election of directors, enacting, amending or repealing by-
70 laws, &c., the said stockholders shall be entitled to one vote
71 for every share of stock not exceeding twenty; one vote for
72 every two shares over twenty and not exceeding one hundred,
73 and one vote for every four shares exceeding one hundred.

74 2. Be it further enacted, That all Acts or parts of Acts in
75 conflict with this Act are hereby repealed.

76 3. This Act shall be in force from its passage.

HOUSE BILL No. 40.

AN ACT FOR THE PROTECTION OF FISH.

Be it enacted by the Legislature of West Virginia :

1 1. That it shall be unlawful to catch, or kill, or at-
2 tempt to catch or kill by means of any drag-net, gill-
3 net, drift-net, seine, set-net, stationary-net, or by pois-
4 oning the waters with lime, or any deleterious sub-
5 stance whatever, or by obstructing by weirs, or other
6 contrivance intended to stop the passage of fish up or
7 down, or by shooting them, or killing them by striking
8 upon rocks, or any other thing under which they may
9 be, in any of the rivers, creeks, or streams within this
10 State, at any time between the 15th day of May and
11 the 15th day of October of each year; nothing herein
12 shall be construed to apply to the Ohio River, or pre-
13 vent the catching of minnows for bait.

14 2. That every person offending against the provi-
15 sions of this act, shall forfeit and pay for every such
16 offence, a penalty of not less than five dollars nor more
17 than ten dollars, to be recovered in the name of the

18 State of West Virginia, before any justice of the prop-
19 er county ; and such justice, upon complaint or infor-
20 mation by oath or affirmation, shall issue his summons
21 commanding the appearance of the party or parties
22 summoned, or in default of such appearance, the jus-
23 tice shall proceed to inquire into the truth of the com-
24 plaint, and if found guilty, the party or parties defend-
25 ant shall be held to pay the penalty in this act provi-
26 ded; with the costs of suit, which shall be collected in
27 like manner as other judgments in civil actions before
28 justices ; all penalties collected under this act shall be
29 for the use and benefit of common schools.

30 3. It shall be lawful for any person to take, remove
31 or destroy any obstruction to the natural transit of fish
32 placed in any of said streams for the purpose of catch-
33 ing the same.

34 4. This Act shall be in force from and after the 1st
35 day of August, 1863.

HOUSE BILL No. 41.

**A BILL PROVIDING FOR EXAMINING AND
CERTIFYING COMMISSIONERS BOOKS
FOR 1863.**

Be it enacted by the Legislature of West Virginia,

1 1. It shall be the duty of the Recorders of the
2 several counties of this State, where the books
3 of the Commissioners of the Revenue were not
4 examined and certified before the 20th day of
5 June, 1863, to examine and certify said books
6 for 1863, and do and discharge all the duties in
7 reference thereto, as is required of the clerks
8 of the county courts; and the said recorders
9 shall be subject to the like penalties and re-
10 ceive the same allowances as is prescribed in
11 chapter thirty-five of the second edition of the
12 Code of Virginia for the said clerks.

13 2. This Act shall be in force from its passage.

HOUSE BILL No. 42.

A BILL PRESCRIBING GENERAL REGULATIONS FOR THE INCORPORATION OF JOINT STOCK COMPANIES OTHER THAN FOR BANKS AND INTERNAL IMPROVEMENTS.

Be it enacted by the Legislature of West Virginia:

1 1. Every corporation for any purpose other than for Banks
2 and internal improvements, hereafter incorporated, unless other-
3 wise provided by the act of incorporation, shall be subject to
4 the rules and regulations prescribed by this act.

5 2. All such corporations shall have perpetual succession, a
6 common seal, which it may alter or renew at its pleasure, may
7 sue and be sued, implead and be impleaded, contract and be
8 contracted with, purchase, hold and grant estates, real and per-
9 sonal, and make ordinances, by-laws and regulations, consistent
10 with the laws of the State, for the government of all under its
11 authority, the management of its estates, and the due and or-
12 derly conducting of its affairs. They shall not hold any more
13 real estate than is proper for the purposes for which it is incor-
14 porated, nor employ its capital, money or effects, or otherwise
15 engage in transactions or business not proper for those pur-
16 poses, nor shall one company subscribe for the stock of an-
17 other unless specially allowed by law; but nothing herein shall
18 prevent a company from receiving stocks or other property in
19 satisfaction of any judgment, order or decree or as collateral
20 security for or in payment of any debt, or from purchasing

21 stocks or other property at any sale made for its benefit. If
22 the company so receive shares of its own stock, it may either
23 extinguish the same, or sell and transfer such shares to a pur-
24 chaser; but no vote shall be given on said stock while so held
25 by the company.

26 3. When, by an act incorporating such joint stock company,
27 commissioners are appointed to receive subscriptions to the
28 capital stock thereof, public notice for thirty days shall be
29 given by them of the time and places at which books will be
30 opened for subscriptions; and the subscriptions shall be in
31 shares of one hundred dollars each.

32 4. Upon every subscription there shall be paid upon each
33 share, to the commissioners, two dollars at the time of subscri-
34 bing, and the residue thereof as required by the president and
35 directors.

36 5. The books for subscriptions shall be kept open for ten
37 days; if within that time more than the whole capital stock be
38 subscribed, the commissioners at the place first named in the
39 act shall reduce the subscriptions so as to have the amount of
40 such capital stock and no more, deducting the excess from the
41 largest subscriptions in such manner, that no subscription shall
42 be reduced while any one remains larger.

43 6. If at the end of ten days, so much of the capital stock
44 shall not have been subscribed as is necessary to incorporate the
45 subscribers, the books may thereafter be continued open, or
46 closed and reopened from time to time, with or without notice,

47 as the commissioners at the said first named place may deem
48 best, until the whole capital stock shall be subscribed, or until
49 the election of the president and directors.

50 7. When it shall appear to the commissioners at the place
51 first named in the act, that so much of the capital stock is sub-
52 scribed, as is sufficient to incorporate the subscribers, the said
53 commissioners shall give notice thereof by publication in a
54 newspaper for not less than two weeks, and call a general
55 meeting of the subscribers at a certain time and place, which
56 time shall not be less than fourteen nor more than thirty days
57 from the first of such publication, the subscribers, their execu-
58 tors, administrators or assigns, shall stand incorporated from
59 the time of such meeting, unless in the said meeting it be deter-
60 mined otherwise.

61 8. An annual meeting of stock holders, whether incorpora-
62 ted heretofore or hereafter, shall be held on such day as is or
63 may be prescribed by law, or if none be so prescribed, on such
64 day as the stockholders may in general meeting, from time to
65 time appoint, and at such place as shall be fixed from time to
66 time by the board of directors, of which notice shall be publish-
67 ed for two weeks in a newspaper.

68 9. A general meeting of stockholders may be held at any
69 time upon the call of the board of directors, or of stockholders
70 holding together one tenth of the capital stock, upon their giv-
71 ing notice of the time and place for such meeting for thirty
72 days, in a newspaper published in or near the place at which
73 the last annual meeting was held.

74 10. To constitute a meeting of stockholders there must be
75 present those who can give a majority of all the votes which
76 could be given by all the stockholders. If a sufficient number
77 fail to attend at the time and place of meeting, those who do
78 attend may adjourn from time to time until a meeting shall be
79 regularly constituted. A meeting of stockholders may adjourn
80 from time to time until its business is completed.

81 11. In a meeting of stockholders, each stockholder may, in
82 person or by proxy, give the following vote on whatever stock
83 he may hold in the same right, to-wit: One vote for each share
84 of such stock, not exceeding ten, and one vote for every four
85 shares exceeding ten. When a vote is offered to be given at
86 any meeting upon stock transferred within sixty days before
87 such meeting, if any present object to the vote, it shall not be
88 counted, unless the stockholder has made or shall make oath
89 that the stock on which such vote is to be given is held by him
90 bona fide, and not by virtue of a transfer made with intent to
91 give more votes than is allowed by the preceding section.

92 12. There shall be for every company a president and direc-
93 tors, who shall be a board to have all things done that are pro-
94 per to be done by the company, except so far as may be other-
95 wise provided by any law of the State, or any by-law or regu-
96 lation of the stockholders. The stockholders in general meet-
97 ing prescribe the number of directors by a by-law, to take
98 effect at the next annual meeting; but, unless a different num-
99 ber be prescribed, there shall be five directors, besides the pres-
100 ident. The directors, and where not otherwise provided, the

101 president also, shall be elected by the stockholders in general
102 meeting. The stockholders in general meeting, may remove
103 any director and fill the vacancy caused by such removal; but
104 unless so removed, the directors shall continue in office until
105 the next annual meeting of the stockholders, and until their
106 successors shall be appointed. Should the number of directors
107 be at any time reduced below the number necessary to hold a
108 meeting of the board, the remaining directors may fill the vacan-
109 cy until the next general meeting of the stockholders, who may
110 elect directors in place of those so appointed as last aforesaid;
111 upon the failure of the stockholders so to elect, such newly ap-
112 pointed directors shall continue in office until the next annual
113 meeting of the stockholders, or until their successors shall be
113½ appointed.

114 13. There shall be no compensation for services rendered
115 by the president or any director unless it be allowed by the
116 stockholders. During the absence of the president, the direc-
117 tors may appoint a president pro tempore; the directors may
118 also fill any vacancy which may occur in the office of presi-
119 dent or director otherwise than by removal. The board shall
120 appoint a cashier or treasurer and such other officers and agents
121 as it may deem proper, and prescribe their compensation, who
122 shall give bonds payable to the company, with such conditions
123 as the board may require, and with sureties as it may approve,
124 and hold their places during its pleasure.

125 14. The board shall cause regular books of account to be

126 kept, and balanced annually or semi-annually. All books,
127 papers, correspondence and funds in possession of any officer of
128 the company shall, at all times, be subject to the inspection of
129 the board or a committee thereof, and to the stockholders at
130 general meetings.

131 15. The board shall hold meetings at such times as they
132 shall see fit, or the president shall require. No member of
133 the board shall vote on a question in which he is personally
134 interested, otherwise than as a stockholder; the names of
135 those voting each way shall be taken down, if desired, at the
136 time, by any member; there shall be record of such votes and
137 of all proceedings of the board, and the same shall be verified
138 by the signature of the presiding officer.

139 16. The board shall make a report to the stockholders at
140 their annual meetings, of the condition of the company. Ac-
141 companying the report there shall be statements of the re-
142 ceipts and disbursements for a year ending on such day as the
143 by-laws may prescribe, and a statement of the surplus fund
144 then on hand, within thirty days next before such meeting; the
145 record of the proceedings of the board shall be opened to the
146 inspection of three or more stockholders, holding together one
147 tenth of the capital stock.

148 17. Immediately after the election of president and direc-
149 tors, the books for receiving subscriptions shall be delivered
150 to them. If the whole capital stock shall not have been subscri-
151 bed, they shall take measures for obtaining subscriptions of

152 the residue ; they shall not, to obtain such subscriptions, sell
153 the stock at less than par, but may fix the price of such resi-
154 due at a premium, which shall be for the benefit of all the
155 stockholders.

156 18. Shares of stock* shall be deemed personal estate, and
157 as such shall pass to the personal representative or assignee of
158 a stockholder ; a book shall be kept by the company in which
159 the shares may be assigned.

160 19. Immediately after the election of president and direc-
161 tors, the money paid on shares at the time of subscribing
162 shall be paid by the commissioners who may have received
163 the same, to the order of the board ; in case of failure so to
164 pay, the company may recover the same of said commission-
165 ers, by warrant, or by action according to the amount, or by
166 motion in the Circuit Court on ten days notice, in lieu of an
167 action. If the money which any stockholder has to pay on
168 his shares, be not paid as required by the president and direc-
169 tors, the same, with interest thereon, may be recovered by
170 warrant, action, or motion as aforesaid, or such shares may,
171 after notice in a newspaper for one month of the time and
172 place of sale, be sold at public auction for ready money and
173 transferred to the purchaser ; out of the proceeds of such sale
174 there shall be paid the charges, and the money which ought
175 to have been paid on the said shares with interest thereon ;
176 any surplus shall be paid to the delinquent or his personal
177 representative. If there be no sale for want of bidders, or if

178 the sale shall not produce enough to pay the charges and the
179 money which ought to be paid with interest, the company may
180 recover against such stockholder whatever may remain un-
181 paid, with interest thereon, by warrant, action or motion as
182 aforesaid.

183 20. No stock shall be assigned on the books without the
184 consent of the company until all the money which has become
185 payable thereon shall have been paid; and on any assignment
186 the assignee and assignor shall each be liable for any instal-
187 ments which may have accrued or which may thereafter ac-
188 crue, and may be proceeded against in the manner before pro-
189 vided. The person in whose name shares of stock stand on
190 the books of a company, shall be deemed the owner thereof
191 as it regards the company.

192 21. The president and directors shall issue to each person
193 appearing on the books of the company as owner of any shares
194 of stock fully paid in, a certificate for such shares under the
195 seal of the company, signed by the president and counter-
196 signed by the treasurer or cashier. If any person shall, for
197 valuable consideration, sell, pledge or otherwise dispose of
198 any of his shares of stock to another, and deliver to him the
199 certificate for such shares, with a power of attorney, author-
200 izing the transfer of the same on the books, the title of the
201 former (both at law and equity,) shall vest in the latter, so
202 far as may be necessary to effect the purpose of the sale,
203 pledge or other disposition, not only as between the parties
204 themselves but also as against the creditors of, and sub-

205 sequent purchasers from the former subject to the closing
206 provision of the 20th section.

207 22. The person to whom any such certificate may be issued
208 may return the same to the office of the company, and, in
209 person, or by an attorney acting under a power from him,
210 assign on the books of the company either the whole number
211 of shares mentioned in such certificate or a less number; the
212 certificate so returned shall be cancelled and filed in the office
213 of the company, and thereupon so many new certificates shall
214 be issued, and to such person or persons as may be proper in
215 the case

216 23. When a person, to whom such a certificate is issued,
217 alleges it to have been lost, he shall file in the office of the
218 company, 1st. An affidavit, setting forth the time, place and
219 circumstances of the loss; 2d. Proof of his having advertised
220 the same in a newspaper once a week for two months, and 3d.
221 A bond to the company with one or more sufficient sureties,
222 conditioned to indemnify all persons against any loss in con-
223 sequence of issuing a new certificate in place of the former;
224 and thereupon the board may direct such new certificate, and
225 the same shall be issued accordingly.

226 24. The board shall semi-annually declare dividends of so
227 much of the net profits of the company as it may deem it
228 prudent to divide. If any stockholder be indebted to the
229 company, his dividend, or so much as may be necessary, shall
230 be passed to his credit in payment of the debt. If the board
231 shall declare a dividend of any part of the capital stock of

232 the company, all the members of the board who shall be
233 present, and not dissent therefrom, shall, in their individual
234 capacity, be generally and jointly liable to the creditors of
235 the company for the amount of capital so divided, and may be
236 decreed against therefor, on a bill in equity filed on behalf of
237 the creditors; and moreover each stockholder who shall
238 participate in such dividend shall be liable to such creditors,
239 to the extent of the capital stock so received by him.

240 25. The stockholders of any such company out of debt,
241 may in general meeting, order dividends of such capital
242 stock. But before such dividend is made, notice of the order
243 must be posted at the door of the court house of the county
244 or corporation wherein the general meeting was held on the
245 first day of two successive courts, or published for three
246 months in a newspaper circulating in the neighborhood.

247 26. Of every dividend declared, and of the time and place
248 appointed for the payment thereof, the board shall cause no-
249 tice to be published in some newspaper printed in or near the
250 town or place in which the principal office of the company
251 may be situated. In January, 1865, and once in every five
252 years afterwards, they shall publish in such newspapers for
253 three successive weeks a list of all dividends which have re-
254 mained unpaid for two years or more, with the names of the
255 persons to whose credit such dividends stand. All dividends
256 declared by such companies, and not called for for two years,
257 and all dividends that have been already declared, and not
258 called for for the term of two years, shall be by said com-

panies paid into the public treasury, to be subject to the order of the stockholder or his representative, when called for, the stockholder establishing his right thereto to the satisfaction of the Auditor of Public Accounts.

27. If any such company heretofore or hereafter incorporated, shall by deed of trust, mortgage or otherwise, create any lien or incumbrance on works or property for the purpose of giving a preference to one or more creditors of the company over any other creditor or creditors, the same shall insure to the benefit ratably, of all the creditors of the company existing at the time of such lien or incumbrance is created.

28. If four fifths of the capital stock of any such company, become the property of less than five persons, or if more than the half of such capital stock be for more than six months the property of one person, all the corporate rights and privileges of such company shall cease. And if any such company be not organized by the appointment of a president and directors, within two years from the passage of its act of incorporation, or though so organized, if it shall suspend its operations for two years, its corporate rights and privileges shall, in each of their cases, also cease.

29. Every such company shall exhibit its books, and a statement of its property and condition, to such agent or agents as the general assembly may from time to time appoint the same

285 30. The act of incorporation of every such company shall
286 be in force for thirty years from the passage thereof and no
287 longer, and may, at any time after fifteen years from the or-
288 ganization of the company, be amended or repealed at the
289 pleasure of the legislature. Any such act of incorporation
290 passed, which the legislature now has, or may hereafter have
291 power to amend, shall be deemed to be amended by this chap-
292 ter, now or whenever such power shall exist.

293 31. No such company shall hereafter interpose the defence
294 of usury in any action, nor shall any bond, note, debt or con-
295 tract of such company be set aside, impaired or adjudged in-
296 valid by reason of anything contained in the laws prohibiting
297 usury.

298 32. When any corporation shall expire, or be dissolved,
299 or its corporate rights and privileges shall have ceased, all
300 its books and property, and debts due to it, shall be subject to
301 the payment of debts due by it, and then to distribution
302 among the members, according to their respective interests ;
303 and such company may sue and be sued as before, for the
304 purpose of collecting debts due to it, prosecuting rights un-
305 der previous contracts with it, and enforcing its liabilities and
306 distributing the proceeds of its works, property and debts
307 among those entitled thereto.

308 33. This Act shall be in force from its passage.

HOUSE BILL No. 44.

**A BILL CONFERRING ON THE GOVERNOR
THE POWERS AND DUTIES OF THE BOARD
OF PUBLIC WORKS.**

Be it enacted by the Legislature of West Virginia,

1 1. All the powers and duties vested by the
2 laws now in force in this State, in the board of
3 public works are hereby conferred on, and shall
4 be exercised by the Governor of the State.

5 2. This act shall be in force from its passage.

HOUSE BILL No. 45.

**A BILL TO REMOVE THE SEAT OF JUSTICE
OF HAMPSHIRE COUNTY TEMPORARILY
TO PIEDMONT.**

Be it enacted by the Legislature of West Virginia :

1 1. The circuit court of Hampshire county
2 shall be held, and the Recorder's office of the
3 said county be kept, in the town of Piedmont
4 instead of Romney, until the Governor by his
5 proclamation shall direct the same to be re-
6 moved to the said town of Romney.

7 2. The records, books and papers pertaining
8 to the said court and Recorder's office shall be
9 removed to the said town of Piedmont as spee-
10 dily as may be practicable, and be retained
11 there in the care and custody of the proper of-
12 ficers, until the Governor by proclamation di-
13 rect the same to be returned to and kept at the
14 said town of Romney.

15 3. This act shall be in force from its passage.

HOUSE BILL No. 46.

A BILL PROVIDING FOR THE CONSTRUCTION OF A ROAD IN THE COUNTY OF HARDY.

Be it enacted by the Legislature of West Virginia:

1 1. Abijah Dolly, Alfred Zoakum, and William Lantz, are
2 hereby appointed commissioners to open a wagon road with a
3 grade not exceeding five degrees of elevation from Greenland
4 Gap Turnpike to North Fork Turnpike in the county of Har-
5 dy. The sum of one thousand dollars is hereby appropriated
6 for the construction of said road out of the Treasury of the
7 State, to be paid upon the order of the said commissioners in
8 the same manner as other appropriations from the treasury
9 are paid.

10 2. Said commissioners shall not draw any money out of said
11 appropriation until the work is completed, for which such
12 draft may be drawn, and then only upon their written state-
13 ment on oath that work equal to the amount drawn is per-
14 formed and the money due for the same.

15 3. The said commissioners shall superintend the construc-
17 tion of said road without compensation, and may receive gra-
18 tuitous labor from the citizens to aid in the construction of
19 said road. The commissioners shall cause the road to be well
20 made and with as little expense as practicable, so that loaded
21 wagons may conveniently pass the same.

22 4. This act shall be in force from the passage thereof.

HOUSE BILL No. 47.

**A BILL DECLARING DENT'S RUN IN THE
COUNTY OF MARION, A PUBLIC HIGH-
WAY.**

Be it enacted by the Legislature of West Virginia :

1 1. The stream known as Dent's Run, in the
2 county of Marion, from the point where the
3 county road crosses said stream, near the resi-
4 dence of Jefferson E. Hays, to its mouth, is here-
5 by declared a public highway for the purpose
6 of floating timber down said stream in times
7 of freshets.

8 2. The landholders on said stream are here-
9 by authorized to place swinging gates across
10 the same not less than seven feet wide so as to
11 permit the free passage of timber down the
12 same.

13 3. This act shall be in force from its passage.

HOUSE BILL No. 48.

**A BILL RELATING TO THE SUPERINTEND-
ENT AND COLLECTORS OF THE TOLLS
ON THE CUMBERLAND ROAD**

Be it enacted by the Legislature of West Virginia,

1 1. The superintendent and collectors ap-
2 pointed or to be appointed under the act of the
3 General Assembly of Virginia, passed Febru-
4 ary 7th, 1862, entitled "An Act concerning
5 the Cumberland Road;" shall be allowed by
6 the board of public works, a reasonable com-
7 pensation for their services, to be paid them out
8 of the tolls collected from said road under said
9 act, provided the compensation to be allowed
10 said superintendent shall not exceed the sum
11 of \$600 per annum, and the compensation to
12 be allowed said collectors shall not exceed the
13 sum of \$350 per annum.

14 2. This act shall be in force from its passage.

HOUSE BILL No. 49.

A BILL MAKING APPROPRIATIONS.

Be it enacted by the Legislature of West Virginia,

1 1. There is hereby appropriated for the purposes herein spe-
2 cified, the following sums, viz :

3 To the payment of outstanding claims for expenses in car-
4 rying into effect the ordinances of the late Constitutional
5 Convention, and the schedule annexed to the original constitu-
6 tion, including expenses of all elections held under and by
7 virtue of the said ordinances and schedule, \$

8 On account of the civil contingent fund..... 5,000

9 To salaries of officers of civil government..... 4,000

10 To expenses of the judiciary, including salaries of judges,

11 mileage, &c..... 5,000

12 To contingent expenses of the courts of the State..... 2,000

13 To pay of clerks in collector's offices..... 2,000

14 To expenses of lunatics..... 3,000

15 To expenses of convicts..... 2,000

16 To salary of Adjutant General... 600

17 To pay of janitor in executive office 150

18 To defray expenses of criminal charges, including wit-

19 nesses, &c..... 3,000

20 2. This act shall take effect from its passage.

HOUSE BILL No. 50.

A BILL ADMITTING THE COUNTY OF BERKELEY INTO, AND MAKING THE SAME PART OF THIS STATE.

1 Whereas, by an act of the General Assembly of the State
2 of Virginia, entitled "An Act giving the consent of the State
3 of Virginia to the county of Berkeley being admitted into
4 and becoming part of the State of West Virginia," passed
5 January 31, 1863, it was, among other things, enacted that
6 polls should be opened and held on the fourth Thursday of
7 May, then next, at the several places for holding elections in
8 the said county for the purpose of taking the sense of the
9 qualified voters thereof, on the question of including the said
10 county in the State of West Virginia; and if the Governor of
11 the said State of Virginia was of opinion that the said vote
12 had been opened and held, and the result ascertained and cer-
13 tified pursuant to law, he should certify the result of the same
14 under the seal of the said State of Virginia to the Governor
15 of this State; and if a majority of the votes given at the
16 said polls should be in favor of the said county becoming part
17 of this State, the same should become part of this State
18 when admitted, with the consent of the Legislature thereof:

19 And whereas, Francis H. Peirpoint, Governor of the Com-
20 monwealth of Virginia, did, on the twenty second day of July,
21 in the present year, after reciting that polls were opened in
22 the said county, on Thursday, the 28th day of May, 1863, for
23 the purpose indicated in the above entitled act, certify under
24 his hand and the less seal of the said Commonwealth, that

25 from the returns on file in the executive department thereof, a
26 very large majority of the votes cast at the said election were
27 in favor of the said county of Berkeley becoming part of the
28 State of West Virginia: Therefore

Be it enacted by the Legislature of West Virginia,

29 1. The county of Berkeley, lately constituting part of the
30 Commonwealth of Virginia, is hereby admitted into and made
31 part of this State, and shall constitute part of the tenth Sen-
32 atorial District, and of the tenth judicial circuit, and shall at
33 the election herein provided for, and at every annual State
34 election thereafter, choose two members of the House of Del-
35 egates.

36 2. It shall be the duty of the Governor, so soon as he shall
37 have reason to believe that an election can be properly held in
38 the said county, to issue his proclamation directing an election
39 to be held on such day as he shall appoint, at the several places
40 for holding elections therein, for the election of two delegates,
41 two assessors, a clerk of the circuit court, sheriff, prosecuting
42 attorney, surveyor of lands, and recorder, and appointing
43 three voters of the said county, any two of whom may act and
44 any one or more of whom may fill vacancies in their own body,
45 whoshall serve as superintendents of the said election.

46 3. The said superintendents shall, for every place of voting
47 in the said county, appoint three commissioners, any two of whom
48 may act, and a conductor, to superintend and conduct the
49 election at the place for which they are appointed. They shall
50 furnish the commissioners for each place of voting with the
51 proper ballot boxes, poll books, and forms. But if at the

52 time the polls should be opened at any place of voting there
53 shall be present but one commissioner willing to act, he shall
54 associate with himself as a commissioner, some freeholder of
55 the county then present; and if there be no commissioner
56 present willing to act, any two freeholders of the county pres-
57 ent and willing to act, shall be commissioners.

58 4. In all other respects the said election shall be conducted
59 and the result ascertained, certified, and returned, according
60 to the directions contained in clauses V, VI, VII, VIII, IX,
61 X, XI, XII, XIII, XVII, XIX, XX, and XXI of an ordi-
62 nance of the Constitutional Convention, entitled "An ordi-
63 nance to provide for the organization of the State of West
64 Virginia," passed February 19, 1863. The Secretary of the
65 State shall prepare and forward in time, to the Superintend-
66 ents to be appointed as aforesaid, poll books and the proper
67 forms of oaths and returns, and three printed copies of the
68 constitution as amended, for every place of voting in the said
69 county, and the said superintendents shall make proper distri-
70 bution of the same.

71 5. The terms of office of the persons elected at the election
72 herein directed to be held, shall commence as soon thereafter
73 as they are qualified, as required by law; but shall continue
74 and be computed as if the same had begun on the first day of
75 January last.

76 6. All officers acting within the said county by the author-
77 ity of the laws of Virginia, and under the reorganized gov-
78 ernment thereof, at the time of the passage of this act, shall
79 continue to exercise the powers, and perform the duties of

80 their respective offices, in the name and under the authority of
81 the State of West Virginia, until the officers elected or ap-
82 pointed under this, or any other act of this Legislature for the
83 discharge of similar duties, are qualified.

84 7. Clause X, of the third section of an act, entitled "An
85 Act to fix the terms of the several courts," passed at the pres-
86 ent session of the Legislature, is hereby repealed; and in
87 place thereof it is hereby directed that the commencement of
88 the terms of the circuit courts held in the several counties of
89 the tenth circuit, shall be as follows: For the county of Pen-
90 dleton, on the first day of March and the same day of May,
91 September, and November; for the county of Hardy, on the
92 tenth day of March, and the same day of May, September,
93 and November; for the county of Hampshire, on the twenty-
94 third day of March, and the same day of May, September,
95 and November; for the county of Morgan, on the tenth day
96 of April and on the same day of June, October and Decem-
97 ber; for the county of Berkeley, on the sixteenth day of
98 April, and on the same day of June, October, and December.

99 8. The following persons, to-wit,

100 are hereby appointed
101 commissioners to divide the said county of Berkeley into
102 townships, under the provisions of an act passed at the pres-
103 ent session of the Legislature, entitled "An Act to provide
104 for the division into townships of the several counties of the
105 State."

106 9. This act shall be in force from its passage.

HOUSE BILL No. 51.

A BILL TO INCORPORATE THE MARION AND MON- ONGALIA NAVIGATION COMPANY.

Be it enacted by the Legislature of West Virginia:

1 1. A joint stock company is hereby incorporated in the
2 name of the Marion and Monongalia Navigation Compa-
3 ny, for the improvement of the Mononghela river, by locks and
4 dams, from the Pennsylvania line to the town of Fairmont, in
5 Marion county.

6 2. Said company shall be a body corporate, with power to sue
7 and be sued; and six commissioners shall be appointed, three
8 from the county of Monongalia and three from the county of
9 Marion, whose duty it shall be to open books at the county
10 seats of said counties, for the purpose of receiving subscrip-
11 tions of stock to said company.

12 3. The stock shall be divided into shares of twenty-five dol-
13 lars each, and as soon as the amount of fifty thousand dollars
14 is subscribed, the commissioners shall call a meeting of the
15 stockholders, to elect nine directors, for the management of said
16 company.

17 4. The directors so elected shall be so divided that not more
18 than five of them shall reside in one county, which directors
19 shall meet as soon as convenient and elect one of their own
20 body president. Said directors shall be elected annually on
21 the first Monday in May, except the first board which shall
22 serve until the first day of May, from whatever time they
23 may be elected, any board of directors at any time elected
24 shall serve until their successors are elected and qualified.

25 5. Said company shall put said work under contract as soon

26 as it shall have sufficient funds subscribed and paid in, and as
27 soon as any locks and dams are built and put in working order,
28 may receive tolls on steam boats and other water craft coming
29 up said river and returning, but no tolls shall be collected on
30 any craft or lumber going down said river with no intention
31 of returning, until all the locks and dams are finished and in
32 working order, to the town of Fairmont, in Marion county.

33 6. The tolls shall be regulated so as not to exceed, per mile
34 for boats, or per thousand feet for lumber, the tolls collected
35 by the Mononghela Navigation Company, on the said river, in
35½ Pennsylvania.

36 7. Said company shall pay such damages as may accrue
37 from the destruction of water power to mills now on the said
38 river, and lands which they are hereby authorized to condemn and
39 use for the construction of locks and dams, lock houses, and
40 for any purpose necessary for completing said Navigation
41 Company, which damages shall be assessed by seven arbitra-
42 tors, three to be chosen by the said company, three by the
43 person so claiming such damage, and one by the six so chosen.
44 Said arbitrators shall take into consideration the advantages
45 derived as well as the disadvantages incurred.

46 8. The following persons shall be the commissioners in ac-
47 cordance with the second section for Marion county: George
48 W. Jolliff, James O. Watson, John Kearsly. For Mononga-
49 lia county, Wm. Lazier, Henry Dering, Wm. Hanaway.

50 9. All laws heretofore passed in reference to the navigation
51 of the Mononghela river, are hereby repealed.

52 10. This act shall be in force from its passage.

SUBSTITUTE FOR HOUSE BILL No. 51, "A BILL TO INCORPORATE THE MARION AND MONONGAHELA NAVIGATION COMPANY."

Be it enacted by the Legislature of West Virginia :

1 1. It shall be lawful to open books under the direction of
2 Geo. W. Jolliff, James O. Watson, John Kearsley, Jacob C.
3 Beeson, and Ashel Harr, or any three of them at Fairmont,
4 in the county of Marion, and Morgantown, in the county of
5 Monongalia, under the direction of Henry Dering, David H.
6 Chadwick, Alfred Yeager, Samuel Sears, and Geo. M. Ha-
7 gans, or any three of them for receiving subscriptions in shares
8 of twenty dollars each, to an amount not exceeding two hun-
9 dred thousand dollars, to the capital stock of the Marion and
10 Monongahela Navigation Company, for the purpose of im-
11 proving the river by Slack Water from the Pennsylvania line
12 upwards to the town of Fairmont, in Marion county.

13 2. As soon as one thousand dollars have been subscribed, the
14 subscribers, their executors, administrators, representatives,
15 and assigns, shall be and are hereby incorporated into a com-
16 pany by the name and style of the Marion and Mononghela
17 Navigation Company, with all the rights, privileges, and im-
18 munities, and subject to the responsibilities of a body politic

19 or corporation, and may make such by-laws, rules and regula-
20 tions, as they may deem necessary and advisable, not incōn-
21 sistent with the Constitution of the United States or this
22 State.

23 3. The said company shall be governed by the provisions of
24 the fifty-sixth, fifty-seventh, and sixty-first chapters of the
25 Code of Virginia, 1860, so far as the same are applicable and
26 not inconsistent with this act. At all general meetings and elec-
27 tions, each stockholder may, in person or by proxy, cast one
28 vote for every share of stock owned by him.

29 4. The boroughs of Fairmont and Morgantown, and the
30 counties of Marion and Mononghalia, the Monongahela Navi-
31 gation Company, and the Baltimore and Ohio Railroad Com-
32 pany in their corporate capacities, are hereby authorized to
33 subscribe to the stock of the Marion and Monogahela Navi-
34 gation Company, and the said boroughs of Fairmont and Mor-
35 gantown, and the counties of Marion and Monongalia, are
36 hereby authorized to issue their bonds to obtain money for the
37 payment of their stock redeemable, at a period not exceeding
38 twenty years, and at a rate of interest not exceeding six per
39 cent per annum.

40 5. Said company shall have power to borrow money from
41 time to time, not exceeding in the aggregate, the amount of

42 their capital stock, to issue their bonds or other proper securi-
43 ties for the same, and to pledge their works and property by
44 mortgage or deed of trust, for the payment thereof, and the
45 interest accruing thereon.

46 6. Said company may commence, and place under contract,
47 a lock or dam whenever a sufficient amount of stock has been
48 subscribed and secured to complete the same, and as additional
49 stock is subscribed and secured sufficient to complete another
50 lock and dam, the same shall be placed under contract and
51 thus continue from time to time, till the whole work is com-
52 pleted.

53 7. As soon as a lock and dam is completed and placed in
54 working order, said company may receive tolls to be regulated,
55 so as not to exceed per mile, the rate of tolls collected by the
56 Monongahela Navigation Company on the said river, in the
57 State of Pennsylvania, but no tolls shall be collected on any
58 craft or lumber going down said river from above the slack
59 water, not to return, until all the locks and dams are completed
60 and in working order to Fairmont.

HOUSE BILL No. 52.

A BILL ACCEPTING THE CONDITIONS OF THE ACT OF CONGRESS OF JULY SECOND, EIGHTEEN HUNDRED AND SIXTY-TWO, DONATING PUBLIC LANDS TO THE SEVERAL STATES AND TERRITORIES WHICH MAY PROVIDE COLLEGES FOR THE BENEFIT OF AGRICULTURE AND THE MECHANIC ARTS.

1 1. Whereas, by an act of Congress approved July 2, 1862,
2 there is granted to the several States for the purposes men-
3 tioned in the said act, an amount of public land, to be appor-
4 tioned to each State, equal to thirty thousand acres for each
5 Senator and representative in Congress, to which the States
6 are respectively entitled under the census of eighteen hundred
7 and sixty; but the Secretary of the Interior is thereby di-
8 rected to issue to each of the States in which there is
9 not the quantity of public lands subject to sale at private en-
10 try at one dollar and twenty-five cents per acre, to which said
11 State may be entitled under the provisions of the said act, land
12 scrip to the amount in acres for the deficiency of its distribu-
13 tive share, said scrip to be sold by said States, and the proceeds
14 thereof applied to the uses and purposes prescribed in this
15 said act, and for no other use or purpose whatsoever: and
16 whereas, it is also provided by the said act of Congress, that

17 in no case shall any State to which land scrip may thus be is-
18 sued, be allowed to locate the same within the limits of any
19 other State, or of any territory of the United States, but
20 their assignees may thus locate said land scrip upon any of
21 the unappropriated lands of the United States, subject to sale
22 at private entry at one dollar and twenty-five cents, or less per
23 acre; and whereas, it is further provided by the said act, that
24 the grant thereby authorized shall be made on certain condi-
25 tions therein expressed, to which, as well as the provisions in
26 the said act contained, the previous assent of the several States
27 shall be signified by legislative acts; and that no State shall
28 be entitled to the benefit of the said act of Congress, unless
29 it shall express its acceptance thereof by its Legislature, with-
30 in two years from the date of the approval of the said act by
31 the President.

32 And whereas, it is manifestly to the interest of the good
33 people of West Virginia, that the said act of Congress should
34 be accepted on their behalf, and provision made according to
35 the terms of the said act for establishing, with five years from
36 the date of its approval, a college for the purposes therein in-
37 dicated: Therefore,

Be it enacted by the Legislature of West Virginia:

38 1. The act of Congress approved the second day of July,

39 eighteen hundred and sixty-two, entitled "An Act donating
40 public lands to the several States and territories which may
41 provide colleges for the benefit of agriculture and the mechan-
42 ic arts," with all the conditions and provisions therein con-
43 tained, is hereby accepted on on behalf of the State of West
44 Virginia; and the Governor of this State is directed to certi-
45 fy this act to the President of the United States and the Sec-
46 retary of the Interior, and to receive from the said secretary
47 the land scrip to which this State is entitled under the said act
48 of Congress, divided, if practicable, into scrip for sections, half
49 sections and quarter sections, and to advertise the same for
50 sale, and sell the same, at such time or times, and in such par-
51 cels as he may find the interest of the trust to require.

52 2 All money derived from sales of the said land scrip shall
53 be invested by the Governor in stocks of the United States,
54 yielding not less than five per centum upon the par value of
55 the said stocks, and upon every certificate of stock received as
56 aforesaid, he shall forthwith cause to be plainly written or
57 printed the following words: "Held by the State of West
58 Virginia in trust under the act of Congress, approved July 2,
59 1862, entitled, an act donating public lands to the several
60 States and territories which may provide colleges for the ben-
61 efit of agriculture and the mechanic arts."

62 3. The money so invested shall constitute a perpetual fund,
63 the capital of which shall remain forever undiminished, except
64 so far as is provided in the fourth section of this act; and the
65 interest of which shall be inviolably appropriated to the en-
66 dowment, support and maintenance of a college, where the
67 leading object shall be, without excluding other scientific and
68 classical studies, and including military tactics, to teach such
69 branches of learning as are related to agriculture and the me-
70 chanic arts, in such manner as the Legislature may pre-
71 scribe, in order to promote the liberal and practical education
72 of the industrial classes in the several pursuits and professions
73 in life.

74 4. If any portion of the fund so invested, or any portion of
75 the interest thereon, shall, by any action or contingency, be
76 diminished or lost, it shall be replaced by this State, so that
77 the capital of the fund shall remain forever undiminished; and
78 the annual interest shall be regularly applied without diminu-
79 tion to the purposes mentioned in the third section of this act;
80 except that a sum not exceeding ten per centum upon the amount
81 received by this State under the provisions of the said act of
82 Congress, may be expended for the purchase of lands for sites
83 or experimental farms, whenever authorized by the Legislature
84 of this State.

85 5. No portion of said fund, nor the interest thereon, shall
86 be applied directly or indirectly, under any pretence whatever,
87 to the purchase, erection, preservation or repair of any build-
88 ing or buildings.

89 6. This State shall, within five years from the said second day
90 of July, eighteen hundred and sixty-two, provide one college
91 as described in the third section of this act, or the grant to
92 this State shall cease and the State shall be bound to pay to
93 the United States the amount received of any lands previous-
94 ly sold.

95 7. An annual report shall be made regarding the progress
96 of the college, recording any improvements and experiments
97 made, with their cost and results, and such other matters, in-
98 cluding State, industrial and economical statistics, as may be
99 supposed useful; one copy of which shall be transmitted by
100 mail free, by the said college to all the other colleges that
101 may be endowed under the provisions of the said act of
102 Congress; and also one copy to the Secretary of the Inte-
103 rior.

104 8. The Governor of this State shall, as required by the
105 eighth section of the said act of Congress, report annually to
106 Congress all sales made of such scrip until the whole shall be

107 disposed of, the amount received for the same, and what ap-
108 propriation has been made of the proceeds.

109 9. The sum of five hundred dollars, to be paid out of the
110 Treasury on requisitions of the Governor, is hereby appro-
111 priated to defray any expenses that may be incurred in pro-
112 curing the said land scrip, advertising and selling the same,
113 and investing the proceeds.

114 10. This act shall be in force from its passage.

HOUSE BILL No. 53.

A BILL DEFINING IN PART THE POWERS AND DUTIES OF THE SEVERAL COUNTIES OF THE STATE.

Be it enacted by the Legislature of West Virginia,

1 1. Every county of the State is a body politic and corporate,
2 and all the powers, duties, rights, privileges and immunities
3 which appertained thereto on the nineteenth day of June, in
4 the year one thousand eight hundred and sixty-three, and are
5 not repugnant to any provision of the Constitution, or incon-
6 sistent with this act, shall remain and continue until altered
7 by law. All acts and proceedings of, concerning or against a
8 county, shall be in the name of "The Supervisors of the coun-
9 ty of—," by which name it shall have perpetual succession,
10 may sue and be sued, make and use a common seal, purchase
11 and otherwise acquire, hold, sell and convey real and personal
12 estate, make and execute contracts, and do all other necessary
13 acts and things in relation to its property and other concerns,
14 and exercise and discharge such powers and duties as now are,
15 or may hereafter be, conferred upon it, or legally required of it.

16 2. The powers of a county, as a body politic and corporate,
17 can be exercised only by the Supervisors thereof, acting as a
18 board or legislative and administrative body, or by virtue of
19 their delegation or appointment. All property owned on the

20 said nineteenth day of June, or thereafter acquired, by any
21 county, shall be and remain vested in the Supervisors thereof,
22 for the use of such county and its inhabitants. The Supervi-
23 sors shall, under such general regulations as may be from time
24 to time prescribed by law, have the care and disposition of
25 the property, and the superintendence and administration of
26 all the internal affairs and fiscal concerns of their county not
27 by law confided to any township therein.

28 3. In all suits in which a county shall be a party, the pro-
29 ceedings shall be the same, and the judgment therein shall
30 have the same effect, as in suits between individuals; but where
31 the judgment is against a county in its corporate name, or
32 against any county officer, as such, and the same is payable
33 from the county treasury, no execution shall issue thereon, ex-
34 cept as hereinafter provided; but such judgment, unless an ap-
35 peal be allowed therefrom by a competent tribunal, shall be
36 payable and paid from the county treasury, in the same man-
37 ner, and at the same time, as if it had been allowed and direc-
38 ted to be paid by the Board of Supervisors at the date of the
39 rendition of such judgment; and if not so paid, the court which
40 rendered final judgment may direct execution to issue as in
41 other cases.

42 4. No suit shall be brought against a county, or against any
43 officer thereof in his official capacity upon a money demand or
44 claim for damages, which, if valid, would be payable from the

45 county treasury unless the same be a legal order upon such
46 treasury, until the demand or claim has been first presented to
47 the Board of Supervisors for payment, and has been disallow-
48 ed by them in whole or in part; in which case the demandant
49 or claimant may appeal from the decision of the Board to the
50 Circuit Court held in the same county, by causing a written
51 notice of his intention to appeal, to be served on the Clerk of
52 such Board, and within thirty days after such disallowance,
53 executing and delivering to the said clerk, a bond with suffi-
54 cient surety, to be approved by him, payable to the Supervi-
55 sors, and conditioned for the faithful prosecution of such appeal
56 and the payment of all costs adjudged against the appellant.
57 Such disallowance of any such demand or claim shall be final
58 and conclusive, and a perpetual bar to any action for the re-
59 covery of the part disallowed, if an appeal is not taken as
60 aforesaid, within the time aforesaid, unless the said Board, by
61 resolution entered on their journal, consent and agree that such
62 action may be instituted. If the Board shall refuse or neglect
63 to act upon any such demand or claim duly and properly pre-
64 sented to them for allowance and payment, by the close of
65 their first stated meeting after that at which the same is so
66 presented, the claimant may institute a suit for the recovery
67 of the same; anything in this section contained to the contrary
68 notwithstanding.

69 5. In any action instituted against a county, unless by ap-

70 peal from the decision of a Board of Supervisors, the process by
71 which the same is instituted shall be served on the clerk of the
72 said Board, of which, and of any appeal taken as aforesaid, he
73 shall immediately notify the Prosecuting Attorney for his
74 county, and the President of the said Board. He shall also,
75 prepare and certify a brief return of any proceedings had be-
76 fore the Board, in relation to the subject matter of the suit or
77 appeal, and file the same, together with the appeal, bond and
78 papers relating to the case in his possession, with the clerk of
79 the court in which the same is pending. Appeals from the de-
80 cision of a Board of Supervisors shall be tried and determined
81 in the same manner as appeals from the decisions of a justice,
82 and costs may be awarded in like manner; and where the sum
83 in controversy is sufficient, a further appeal to the Supreme
84 Court of Appeals may be allowed by and judge of that court.
85 On the trial of every action or suit in which a county is inter-
86 ested, the inhabitants thereof, if otherwise competent, may be
87 witnesses and jurors.

88 6. Every county shall, at its own expense, provide a suita-
89 ble court house and a suitable and sufficient jail, together with
90 convenient offices for the recorder and the clerks of the circuit
91 court, and the board of supervisors thereof; and shall keep the
92 same in constant and adequate repair and supplied with the
93 necessary furniture, books, stationery, fuel, &c. The said offi-
94 ces shall be at the county seat, and shall be made fire proof, or

95 be furnished with sufficient fire proof vaults or safes. The
96 board may also provide other necessary offices and buildings;
97 and may, by purchase, acquire so much land as may be requi-
98 site or desirable for county purposes, and may suitably inclose,
99 improve or embellish the land so or otherwise acquired. In
100 case of the escape of any prisoner by reason of the insuffi-
101 ciency of the jail of any county, whereby the sheriff thereof,
102 or any other person, shall be made liable to any party at whose
103 suit such person was committed, or to whose use any fine or
104 forfeiture was adjudged against him, the county shall reim-
105 burse and pay all sums of money recovered of the sheriff or
106 such other person by such party, by reason of such escape.

107 7. If it becomes necessary or desirable to remove the
108 county seat of any county to any other place within the same,
109 and such removal is deemed advisable by a majority of the
110 board of supervisors of such county, and is approved by a
111 majority of at least three fifths of the voters thereof voting
112 "for removal," and "against removal" at the next annual
113 township elections for the said county, or at intermediate
114 special elections appointed by the said board to be held in
115 each township thereof, not less than thirty days after such
116 appointment, the land with the buildings thereon theretofore
117 used for county purposes, may be sold and the proceeds ap-
118 plied, so far as may be necessary, to the acquisition of the
119 necessary land at the place to which it has been determined to

120 remove, and the erection of other buildings thereon. Such
121 removal and sale may be had notwithstanding the land for-
122 merly occupied may have been donated or sold to the county
123 for the purposes for which it has been used, unless the grant
124 thereof contain an express clause to the effect, that on the
125 removal of the buildings, or of the county seat, such land
126 shall revert to the former owners or their heirs, in which
127 case it shall so revert.

128 8. Any county may subscribe to the capital stock of any
129 joint stock company incorporated to construct a work of in-
130 ternal improvement, through, by or near such county, if a ma-
131 jority of the board of supervisors thereof are of opinion that
132 such subscription is likely to be of general benefit to such
133 county, and is otherwise advisable, and the proposed subscrip-
134 tion is approved by a majority of at least three-fifths of the
135 voters thereof voting "for subscription" and "against subscrip-
136 tion," at the next annual township elections for the said coun-
137 ty, or at intermediate special elections appointed by the said
138 Board to be held in each township thereof, not less than thirty,
139 days after such appointment. But no such subscription shall
140 be for a sum greater than can be paid by a levy on the taxa-
141 ble property of the said county for five successive years, not
142 exceeding twenty cents on the hundred dollars value thereof
143 in any one year, nor shall any such subscription exceed in
144 amount one sixth of the whole capital stock proposed to be

145 raised, or be binding on the county, or be paid in whole or in
146 part until the residue of such stock is, in good faith, subscri-
147 bed for by other counties and responsible persons or corpora-
148 tions. The stock so subscribed for shall vest in the county
149 making the subscription, and the Supervisors thereof may,
150 from time to time, appoint a proxy to represent the same at
151 all meetings of the stockholders and all elections of officers of
152 the said company, and an agent to collect the dividends on such
153 stock, which shall be paid into the county treasury, and be
154 exclusively applied to the payment of the debts or the di-
155 minution of the annual levy thereof.

156 9. Any turnpike or plank road company may, with the
157 consent of three-fourths in interest of its stockholders, other
158 than the State, and the consent of the Legislature, if the State
159 is a stockholder, transfer so much of its road and works as lie
160 in any county to such county, if the Board of Supervisors
161 thereof are willing to, and shall formally accept such transfer
162 upon condition that their county shall thereafter keep the por-
163 tion of road so transferred, and its bridges and other works in
164 such order as is or may be required by law. Upon the com-
165 pletion of such transfer, the Board may elect and provide by
166 ordinance, either to maintain such road and works by the im-
167 position of reasonable tolls, or in the manner in which other
168 county roads and bridges are or shall be worked and kept in
169 repair.

170 10. All the police, legislative and administrative powers of
171 the former county courts, not vested in the township or muni-
172 cipal corporations, including the establishment, regulation,
173 alteration and vacation of county roads, the establishment
174 and regulation of public landings, ferries and mills, and the
175 granting of ordinary and other licenses, are hereby vested in
176 the Boards of Supervisors of the several counties of the State,
177 and shall be exercised and administered by them under the
178 laws relating thereto, not repugnant to the Constitution or in-
179 consistent with this act, which were in force on the said nine-
180 teenth day of June, until the same are altered or amended.
181 If in the establishment of a road, ferry, landing or mill, or in
182 any other proceeding of the said Board, it is authorised by
183 law and becomes necessary or desirable to procure land, and
184 terms of purchase cannot be agreed upon, the Board of Su-
185 pervisors, if it is required for a public purpose, or the parties
186 interested, in all other cases may apply to the circuit court
187 of the county wherein such land or the greater part thereof is
188 situated, to appoint commissioners according to the provisions
189 of the sixth section of the fifty-sixth chapter of the Code of
190 Virginia, second edition, or of the seventeenth section of the
191 same chapter, unless commissioners have been previously ap-
192 pointed under the provisions of the latter; in either case
193 the subsequent proceedings shall be conformed to the directions
194 contained in the said chapter so far as applicable, and the

195 words "court," or "county court," shall be construed to mean
196 the circuit court to which such application shall be made.

11. The supervisors of a county, upon the petition of twenty voters resident in any township thereof, or upon the application of a township meeting held therein, and not otherwise, shall have power to alter the boundaries of such township if they shall deem it advisable; but no such alteration shall take effect until the same is approved and ratified by a majority of the voters of each township interested, assembled in an annual or special meeting thereof, and upon the like petition or application from each township to be affected thereby, and not otherwise, the supervisors of the county may erect a new township out of the territory of one or more townships if they shall deem it advisable, to take effect only when approved and ratified as aforesaid. In the event of the alteration of the boundaries of any township by the erection of a new township, or otherwise, the surveyor of the county shall make two correct maps on which the new lines shall be plainly delineated, maps or plats of the township affected thereby, and duplicate specific descriptions of such lines, one of each of which he shall transmit to the Secretary of the State and deposit the others in the recorder's office of his county. Copies of such maps or plats and descriptions, and of the original maps or plats and descriptions of the several counties and townships of the State, certified by the

219 Secretary of the State or the recorder of the proper county,
 220 shall be received as evidence of their contents in all the courts
 221 of the State. The surveyor's fees and charges for his servi-
 222 ces herein, shall be audited by the board of supervisors, in
 223 like manner as other claims, and be paid from the county
 224 treasury. The supervisors shall also, upon the like petition
 225 or application, have power to change the place for holding
 226 the meetings, and the place or places for holding elections in
 227 the several townships of their county, and to alter the name
 228 of a township, if they deem such change or alteration advi-
 229 sable; and it shall be the duty of their clerk, as soon as
 230 practicable after any such change or alteration is made, to
 231 notify the Secretary of the State thereof.

232 12. All county officers whose election is provided for by the
 233 constitution, or by this act, and the incumbents of all county
 234 offices hereafter created, may be removed from office for cause,
 235 by the board of supervisors of their county, excepting the
 236 prosecuting attorney and clerk of the circuit court, who may
 237 be removed for cause by the said court. Misconduct in office,
 238 habitual or willful neglect of duty, manifest incompetence for
 239 its proper discharge, removal from the county, conviction of
 240 any offense punishable by imprisonment or involving a viola-
 241 tion of an official oath, omission or refusal to take the oath of
 242 office, or to execute and deliver, or to renew, when required,
 243 an official bond, within the time prescribed. Habitual intem-

perance and grossly immoral conduct, shall be deemed sufficient causes to removal; but no removal shall be made by the board of supervisors unless voted for by two thirds of the whole number elected, nor then, if the assigned cause is misconduct in office or neglect of duty, until an opportunity has been afforded to the incumbent to make his defence before the board, or before a committee thereof appointed to investigate the charge or charges against him, who shall report all the facts of the case to the board.

13. The Board of Supervisors of every county shall have power to offer and pay suitable bounties and compensation for the destruction of noxious animals and weeds within their county, and by ordinance or resolution to require or direct the abatement or removal of all nuisances, manifestly and imminently dangerous or deleterious to the health of any of the inhabitants of their county. They shall also have power to take such measures to prevent the spread of contagious or infectious diseases within their county as are usual in such cases. To prevent injury from rabid animals, or animals suffering from contagious or infectious diseases; they may, in like manner, direct such animals to be removed to, or confined in, an appointed place, or to be put to death and their carcasses properly buried or destroyed.

14. To prevent the destruction or injury of sheep by dogs, the Board of Supervisors of any county may require every

268 owner of a dog or bitch, usually or temporarily kept within
269 their county, to take out license for keeping the same therein,
270 and to pay such fee therefor, discriminating between dogs
271 and bitches in the proportion of one to five, as they may
272 from year to year ordain. Such fees shall be paid to the
273 county treasurer, and shall constitute a fund, out of which
274 there shall be paid by orders on that officer to the owner of
275 any sheep destroyed or injured by dogs within the county,
276 the value of those so destroyed, or compensation for such in-
277 jury, on his producing to the clerk of such county an ap-
278 praisement by two disinterested freeholders thereof, first duly
279 sworn for the purpose, of the value of the sheep destroyed or
280 the injury done, and their certificate of their belief that such
281 destruction or injury was caused by dogs. If the fund prove
282 insufficient, or more than sufficient, to pay the orders drawn
283 against it in any one fiscal year, the license fee for the next
284 year shall be increased or diminished accordingly, as the
285 Board shall direct. All dogs and bitches not so licensed, or
286 found off the premises of the owner or keeper, and not in
287 charge of some person over twelve years of age, without a
288 badge, to be provided by the county, indicating that they are
289 licensed, may be shot or otherwise put to death by any officer
290 or resident of the county.

291 10. This act shall be in force from its passage.

HOUSE BILL No. 54.

A BILL REPEALING THE 1ST, 2ND, 3RD AND 4TH SECTIONS OF CHAPTER TWENTY OF THE CODE OF VIRGINIA, 1860, ON PUBLIC PRINTING.

Be it enacted by the General Assembly of West Virginia:

1 1. That the 1st, 2d, 3d, and 4th sections of chapter 20 of
2 the Code of Virginia, 1860—be repealed.

3 2. This act shall be in force from its passage.

HOUSE BILL No. 56.

A BILL TO PROVIDE A REMEDY WHERE RECORDS OR PAPERS ARE LOST.

Be it enacted by the Legislature of West Virginia:

1 1. Where any book containing judgments, decrees, orders
2 or proceedings of a court, or proceedings at rules, is lost, and
3 there can be again entered correctly, by means of any writing,
4 any matters which were on such book, the court may cause its
5 clerk to have such matters re-entered, and such entries shall
6 have the same effect as the original entries.

7 2. Where any such book, or any book containing the record
8 of wills, deeds or other papers, or where any paper filed in a
9 clerk's or recorder's office, is lost, the clerk, or recorder, in
10 whose office such book or paper was, upon the production
11 to him of any original paper which was recorded in the said
12 book or of an attested copy of the record thereof,
13 or of an attested copy of any thing else in such book or
14 of any paper so filed, shall, on application, record or file the
15 same anew. The record shall show whether it is made from
16 an original or a copy, and how the paper from which it was
17 made was authenticated or attested. Such record shall have
18 *prima facie*, the same effect that the record or paper for which
19 it is substituted would have had.

20 3. If in any cause, the original papers therein, or any of
21 them; or the record for or in an appellate court; or any pa-
22 per filed or connected with such record, be lost, the court
23 wherein the cause is, or in which, but for such loss it would or
24 ought to be, may docket the same; and on affidavit of such
25 loss, the cause may be proceeded in, heard and determined,
26 upon an authenticated copy of what is lost, or proof of the
27 contents thereof, or if the cause be in an appellate court, upon
28 a new record made up from the records and papers of the
29 court below, and certified by the proper officer. The court
30 may, however, in its discretion, require new pleadings to be
31 made up in whole or in part; and the plaintiff instead of pro-
32 ceeding under this section, may commence and prosecute a new
33 bill for the same matter; and such new suit may, if the former
34 suit was in due time, be brought within one year after such
35 loss, notwithstanding the expiration of the time within which
36 suit must otherwise have been brought.

37 4. When any book or paper is obliterated, "defaced" or in-
38 jured so as to be in whole or in part illegible, or is destroyed,
39 or carried away and concealed, or is in the possession or con-
40 trol of armed rebels or a public enemy, it shall be deemed lost
41 for the purposes of this act.

42 5. For any services of the clerk under the first section of

43 this act. unless rendered necessary by his own neglect, the
44 court shall allow him a reasonable compensation, which shall
45 be chargeable on the county. For recording anew any will,
46 deed or other paper, the recorder or clerk shall have the same
47 fees as for the original record, to be paid by the party on
48 whose application such new record is made. For replacing as
49 aforesaid the original papers in any cause or the record in an
50 appellate court the costs and expenses shall be ascertained un-
51 der the direction of the court, and adjudged against any party or
52 parties in the cause, or divided among them as the court may
53 in its discretion determine to be equitable; and so also, where
54 new pleadings are ordered.

55 6. Any person desirous of proving the contents of any pa-
56 per filed in a clerk's or recorder's office, or any thing which
57 was of record in any book containing judgments, decrees, or-
58 ders or proceedings of a court, or proceedings at rules, or the
59 record of wills, deeds or other papers, may, if such paper or
60 book be lost within the meaning of this act, file with a com-
61 missioner holding his office under the appointment of the circuit
62 court for the county where such paper or book was filed or
63 kept, a petition stating the nature of the paper or record, the
64 contents of which he desires to prove, and what persons may be
65 affected by such proof. Whereupon the commissioner shall

66 appoint a time and place for proceeding on such petition, and
67 cause reasonable notice thereof to be given to the parties in-
68 terested. If any person who may be affected by the proof be
69 an infant, married woman or insane, the commissioner shall
70 appoint a guardian *ad litem* to attend to the case on his or her
71 behalf.

72 7. The commissioner shall, at the instance of any party in-
73 terested, take in writing, the evidence of the witnesses. He
74 may adjourn from time to time, and shall keep a journal
75 of his proceedings. He shall return the said journal, with all
76 the evidence taken by or filed with him, to the clerk's or recor-
77 der's office in which the book or paper was that is mentioned
78 in the petition, there to remain as evidence against the parties
79 so notified, and those claiming under them, of rights, when bet-
80 ter evidence cannot be had.

81 8. Chapter one hundred and eighty of the Code of Vir-
82 ginia, second edition, and the eleventh, twelfth, thirteenth and
83 fourteenth sections of chapter one hundred and seventy-six of
84 the said code, are hereby repealed.

85 9. This act shall be in force from its passage.

HOUSE BILL No. 57.

A BILL DEFINING, IN PART, THE POWERS AND DUTIES
AND REGULATING THE PROCEEDINGS OF THE BOARD
OF SUPERVISORS IN THE SEVERAL COUNTIES OF THE
STATE.

1 1. The first stated meeting of the supervisors of every county
2 shall be held at the hour of ten, in the forenoon, on the twelfth
3 day after that on which the first township elections are held
4 therein. Their stated meetings required by the Constitution
5 shall be held at the same hour on the twelfth day after the an-
6 nual township and county elections respectively, and on the
7 twentieth day of June and December in every year. The Pres-
8 ident of the board may call special meetings when he deems it
9 necessary or desirable, and shall do so whenever requested, in
10 writing, by one-third of the supervisors of his county, stating the
11 object of such meetings. Of all special meeting, and of the day
12 for holding the same, he shall give timely notice to the clerk of
13 the board, who shall cause each supervisor of the county to be
14 duly notified thereof. All stated and special meetings of the
15 board may, by a majority of those present, be adjourned and
16 continued from day to day until the business properly before
17 them is completed. All meetings shall be held at the court-house
18 of the county; but may, on account of danger from infectious or
19 contagious diseases, or any other cause rendering it unsafe or

20 inconvenient to hold them there, be temporarily held at some
21 other suitable and convenient place within the county.

22 2. The supervisors of each county when assembled for the
23 transaction of business, shall constitute a board, of which a ma-
24 jority of the whole number elected shall be a quorum, and shall
25 conduct their proceedings in legislative form and not otherwise.
26 They may pass by-laws and resolutions for their own govern-
27 ment, and ordinances and resolutions for the regulation of all
28 matters committed to their charge or administration, not incon-
29 sistent with the laws of the State; but all regulations of a per-
30 manent character, or having a future or continuous operation,
31 shall be in the form of ordinances, which shall commence as fol-
32 lows: "Be it ordained by the supervisors of the county of ——."

33 3. For every day on which a supervisor attends a meeting of
34 the board, he shall be entitled to receive from the county treas-
35 ury such sum, not exceeding two dollars, as the board shall from
36 time to time determine, and the president an additional sum
37 equal to that allowed another supervisor; but neither shall re-
38 ceive pay for more than fifteen days attendance during a single
39 term of service. Each supervisor shall also be allowed six cents
40 for every mile necessarily traveled by him, in going to and re-
41 turning from the place of meeting, for any distance traveled be-
42 yond five miles from such place; but mileage shall be paid but
43 once for a meeting adjourned from day to day, and no other
44 compensation shall be made for time occupied in traveling.

45 4. At their meeting next after the first annual township elec-

tion, at their stated meetings in June annually, and whenever a vacancy may occur, the board shall elect one of their number to serve as president, and in case of his absence or disability to act, shall appoint a temporary president. The president shall preside at all meetings of the board, and shall have a general superintendence of the affairs and property of the county.

5. At the same times the board shall appoint a clerk, who shall attend all their meetings, keep a journal in which he shall record all their proceedings, and prepare such ordinances and resolutions as they may direct. At the opening of every meeting, whether stated, special or adjourned, he shall read from the journal the proceedings of the previous meeting, which shall, if necessary, be corrected on the motion of any supervisor, and when approved by the board, shall be signed by the presiding supervisor and countersigned by the clerk. The clerk shall transact such other business pertaining to the office of clerk of the county as is herein, or may be hereafter, required by law or the board of supervisors. In addition to such fees as may be allowed him by law or ordinance, he shall receive for his public services a sum not less than one hundred or more than five hundred dollars per year, according to the population and business of the county, which sum the board shall fix by ordinance and pay quarterly from the county treasury.

6. All notices and publications of county matters and proceedings required by law or ordinance, shall be prepared and signed by the clerk. He shall also prepare and sign as many

71 copies thereof as may be necessary, and shall cause the same to
27 be served on the proper persons, or if personal service is not
73 required, to be posted conspicuously in or at the door of his
74 office, and at the place for holding the annual meetings in each
75 township, by the sheriff of his county, who shall make due return
76 of the performance of such service on the original notice, which
77 shall remain with the clerk. The sheriff shall be allowed for
78 every notice duly so served or posted, and return made thereof
79 as aforesaid, a fee of fifty cents. The supervisors of any county
80 may by ordinance or resolution, direct the publication in one
81 or more newspapers printed in their county, or if none is there
82 printed, then in some other county of the State and having a
83 general circulation in their own, of such notices or class of no-
84 tices as may be indicated in such ordinance or resolution; but
85 such publication shall not dispense with the posting as aforesaid
86 of such notices. The hour at which a special meeting of the
87 supervisors will convene, shall be inserted in the notice thereof,
88 if their President so direct, but if no hour is inserted, it shall
89 convene at the hour of ten in the forenoon.

90 7. All ordinances when finally passed shall be recorded by
91 the clerk of the county in a well bound book, and attested by
92 the president of the board, and copies thereof certified by the
93 clerk, shall be received as evidence of the contents of such ordi-
94 nances in all the courts of the State and before every justice
95 thereof. All ordinances of a public nature, shall be published
96 by posting copies thereof, to be prepared and certified by the

97 clerk, at the places and in like manner as notices are directed
98 to be posted by the preceding section; and if the supervisors
99 so direct, by insertion in one or more newspapers, in the man-
100 ner therein directed; but such insertion shall not dispense with
101 the posting of copies as aforesaid, and the omission of the post-
102 ing or publication of an ordinance shall not affect the binding
103 force or operation thereof.

104 8. At their meeting next after the first township election, at
105 their stated meetings in June annually, and whenever a vacancy
106 may occur, the board of supervisors shall also appoint a county
107 treasurer, who shall give bond in such penalty as they shall
108 direct, with security to be approved by them, conditioned for
109 the faithful discharge of the duties of his office. He shall de-
110 mand, collect and receive all monies and securities due to his
111 county, and may sue for and recover the same for the use of
112 the county, in the name of the supervisors thereof, or in his
113 own name as treasurer. He shall at least once in every quar-
114 ter of a year, counting from the twentieth day of June, settle
115 with the sheriff of his county and demand and receive from
116 him the proceeds which shall be then collected, of all taxes
117 levied for the use of his county, and of all fines and other de-
118 mands and claims thereof, previously placed in the hands of
119 that officer for collection, to whom he shall give duplicate re-
120 cepts for the sum or sums paid, one of which the sheriff shall
121 deliver to the clerk. The compensation of the treasurer shall
122 be fixed by the board of supervisors at a per centage on the

123 amount of his receipts, which may be varied according to the
124 character thereof, but shall in no case exceed five dollars on
125 the hundred, and on collections and receipts from the sheriff
126 shall not exceed three dollars on the hundred. He shall be
127 the holder of all obligations and other securities for the pay-
138 ment of money, and of all money belonging to his county,
129 and shall safely keep the same, and deliver and pay out none
130 except to the orders of the president of the board of supervisors,
131 countersigned by the clerk. At the stated meeting of the
132 board held first after the annual township election, he shall
133 make full report of his cash receipts, of the county orders paid
134 by him during the past year, and of the money, securities and
135 other county property remaining in his hands.

136 9. Every person having a claim or demand against the
137 county, shall file with the clerk thereof, an account or state-
138 ment of the same, fully setting forth the items, and where the
139 claim or demand is for services for which no rate or compensa-
140 tion is fixed by law or ordinance, the number of days occu-
141 pied in such services. The clerk shall present such account or
142 statement to the board at their first meeting thereafter, who
143 shall, after examination and consideration of the same, allow
144 the whole or such part thereof as they may deem just, or dis-
145 allow the whole. If any part is allowed, the clerk, upon re-
146 quest of the claimant, and his execution of a proper receipt
147 for the same, shall draw an order on the treasurer for the sum
148 allowed, in the following form, or to the same effect:

149 No.-----County (with the date,)

150 The treasurer will pay to A. B. or order, the sum of-----
 151 dollars, and----cents, allowed by ordinance (or resolution) of
 152 the board of supervisors, passed on the----day of-----18--
 153 (or by law, as the case may be.)

154 E. F. Clerk.

C. D. President.

155 which order the clerk shall countersign and present to the
 156 presiding supervisor, who, if the same is correct, shall affix his
 157 signature thereto, and the clerk shall deliver it to the payee,
 158 or his order. Every order so signed and countersigned and en-
 159 dorsed by the payee, shall be paid by the treasurer whenever
 160 the same is presented to him at a proper time and place, if
 161 there are funds in his hands applicable to its payment; but
 162 where money is directed by law or ordinance to be paid at fix-
 163 ed times or intervals, as in the case of officers entitled to an
 164 annual salary, payable quarterly, the claim need not be pre-
 165 sented to the board, but the proper officers may make and de-
 166 liver to the party entitled thereto, an order on the treasurer
 167 for the payment thereof. The aggregate of county orders is-
 168 sued in any one fiscal year in discharge of any particular class
 169 of expenditures, shall not exceed the amount levied for that
 170 purpose in the same year, and the balance in and amount due
 171 the treasury at the beginning of the year, applicable thereto.

172 10. Every person indebted to a county and desirous to dis-
 173 charge such indebtedness, shall, unless the claim against him
 174 has been previously placed in the hands of the sheriff or other

175 officer for collection, procure from the clerk of such county, du-
176 plicate statements of the items of such indebtedness, including
177 interest and costs, if any has accrued or been incurred, and
178 pay the amount to the county treasurer, who shall endorse a
179 receipt for the amount paid on each of the said duplicates, one
180 of which, so endorsed, shall be returned to the clerk by the
181 person who paid the money, and the clerk shall write on the
182 other the words "duplicate returned," and sign his name
183 thereto, without which, the treasurer's receipt shall not be
184 deemed an acquittance for the amount, unless the treasurer
185 shall report the payment thereof in his annual report. The
186 clerk shall charge the treasurer with the amounts of all re-
187 ceipts so returned to him.

188 11. The clerk shall keep all the accounts of the county in a
189 suitable book or books, on which he shall charge the sheriff
190 with the amount of the annual levies for the use of the county,
191 and of all fines and other demands placed in his hands for col-
192 lection for account thereof, and credit him only with the
193 amount of the treasurer's receipts returned by him, as above
194 required, and with such allowances as may be made him by
195 the board for delinquents or other cause. The clerk shall also,
196 on the said book or books, charge the county treasurer with
197 the amount of all claims, demands and securities placed in his
198 hands for collection for account of the county, and with the
199 amount of the sheriff's and other receipts returned to the clerk
200 as herein required, and of all other payments to the treasurer

201 which shall otherwise come to the knowledge of the clerk; and
202 credit him with the amount of all orders drawn on him as
203 aforesaid, and issued to the person entitled to payment thereof,
204 and quarterly with the per centage or commission allowed him
205 by the board. The clerk shall also keep an accurate account
206 of all obligations, securities and other property placed in the
207 hands of the treasurer for safe keeping, or any purpose other
208 than collection.

209 12. The presiding supervisor shall at least once in every quarter
210 of a year, and any other supervisor may, at any time during busi-
211 ness hours, inspect and examine the account and other books of
212 the clerk, and if he finds errors therein, or omissions there-
213 from, shall report the same to the board, who shall thereupon
214 take such action as the circumstances of the case may in their
215 opinion require. At the stated meeting of the board first after
216 the annual township election, or at an adjournment thereof, the
217 board shall, either by themselves or a committee appointed for
218 the purpose, who shall duly report to them, examine carefully
219 the books of the clerk, and compare them with the tax books,
220 the treasurer's receipts to the sheriff and others, and such other
221 county books, documents and vouchers, as they may deem pro-
222 per, all of which shall be produced to them for the purpose by
223 the clerk or other officer having charge thereof. They shall also,
224 in like manner, carefully inspect the annual report of the treas-
225 urer, and compare the same with his account on the books of
226 the clerk, and with the orders paid by him, which he shall

227 produce for the purpose, and if the said orders are properly
228 endorsed, and the board is satisfied that his report is correct,
229 they shall so enter upon their journal, and direct their clerk to
230 furnish a duly certified copy of such entry to the treasurer,
231 who, upon receipt thereof, shall, having first cancelled without
232 defacing them, hand to the clerk the orders paid by him and
233 allowed in his report, who shall carefully file the same in his
234 office.

235 13. At the stated meeting of the board of supervisors ap-
236 pointed to be held on the twentieth day of June in each year,
237 on which day the fiscal year of the county shall begin, or at an
238 adjournment thereof, they shall proceed to ascertain by refer-
239 ence to the books and papers in the county clerk's office rela-
240 ting thereto, and otherwise, the amount due by the county and
241 remaining unpaid of each class of expenditures, the amount of
242 debt contracted and payable within the current fiscal year, and
243 the amount required to meet the estimated expenditures of the
244 same period, and shall thereupon levy so many cents on every
245 hundred dollars value of the taxable property of their county
246 as will cover the probable aggregate of liabilities and expendi-
247 tures for that year, including a reasonable allowance for possi-
248 ble delinquencies, which shall be collected by the sheriff of their
249 county at the same time and in the same manner as the State
250 levies are collected, and the proceeds of such collections, and of
251 the collection of all levies directed by law for county purposes,
552 shall be by him paid over to the treasurer of his county at least

253 once in every quarter of a year, counting from the twentieth
254 day of June, who shall, as above prescribed, deliver duplicate
255 receipts for every payment made to him, one of which receipts
256 the sheriff shall without delay file with the clerk. If the board
257 of supervisors of any county shall refuse or neglect to levy, as
258 aforesaid, for any debt previously contracted and falling due
259 within the current fiscal year, any party aggrieved, or likely to be
260 aggrieved, giving at least ten days notice of his intention so to do
261 to the county clerk, may apply by petition to the circuit court
262 of the county, or to the supreme court of appeals, and if a pro-
263 per case is presented and proved, the court petitioned, may, if
264 it deems it a proper case for its interference, require the said
265 supervisors to make such levy as the case requires, and may
266 award costs as they shall deem proper.

267 14. The election of all elective county officers, the certifying
268 and return of the results thereof, the disposition of the poll
269 books and ballots, and the proceedings of the supervisors as
270 judges of the election, qualifications and returns of such offi-
271 cers, and in cases of contested elections, shall be the same as
272 heretofore prescribed in relation to elections of township offi-
273 cers until altered by law. Any county or township officer re-
274 turned elected, who has duly qualified, shall enter upon the dis-
275 charge of the duties of his office at the proper time, notwith-
276 standing his election is contested. Elections to fill vacancies
277 shall be for the unexpired term, and the persons elected, having
278 first duly qualified, shall enter upon the duties of their respec-

279 tive offices within twelve days thereafter. In case of a vacancy
280 in any elective county office, the supervisors shall, at their next
281 stated meeting, or at an intervening special meeting, which
282 may be called for the purpose, appoint a suitable person to exer-
283 cise the powers, discharge the duties, and receive the salary
284 and emoluments of such office until the first day of January, first
285 after the next annual county election. At such county election,
286 if the term for which the former incumbent was elected does
287 not expire on the said first day of January, a suitable person shall
288 be elected to fill such office until the expiration of said term.

289. 15. The supervisors of every county shall have power to en-
290 force the observation of all ordinances legally passed by them
291 in the exercise of their police and administrative powers, by
292 the imposition of such reasonable penalty for any breach there-
293 of, as they may deem proper, not exceeding the sum of fifty
294 dollars in any one case. Such penalties may be recovered, with
295 costs, for the use of the county, before any court or justice
296 having jurisdiction.

297. 16. For the better protection of the public health and mor-
298 als, and to promote the public welfare and convenience, the
299 supervisors of every county shall have power, at any stated
300 special, or adjourned meeting, to grant licenses, to expire on
301 the first day of July then next, for the purposes hereinafter
302 mentioned; for which licenses they may charge and receive
303 such fees, exclusive of the clerk's fees for issuing the same, as
304 they may deem just and proper within the limits hereinafter

305 assigned, proportioning the charge to the extent of the premi-
306 ses to be used, or the amount of business expected to be done,
307 that is to say:

308 For keeping a hotel or tavern for the entertainment of travel-
309 ers and others, or an eating house or oyster saloon, with the
310 privilege of selling to be drank at the place where sold, and
311 of retailing in quantities less than five gallons, wines and
312 spirituous and malt liquors, not less than twenty, or more
313 than sixty dollars.

314 For keeping the same without such privilege, not less than five
315 nor more than twenty-five dollars. But no license shall be
316 required for keeping a boarding house, or houses where per-
317 sons are usually entertained by the week, or longer period
318 only.

319 For keeping a livery stable, not part of a hotel or tavern, not
320 less than ten, or more than thirty dollars.

321 For selling to be drank at the place where sold, and retailing
322 in quantities less than five gallons, wines and spirituous or
323 malt liquors, or any of them, the same limits as a hotel or
324 tavern with such privilege.

325 For retailing, not to be drank at the place where sold, in quan-
326 tities less than five gallons, not less than twenty, or more
327 than forty dollars.

328 For keeping for public use one or more billard tables, for each
329 table not less than ten, or more than twenty dollars.

330 For keeping for public use a bowling alley, not less than ten,
331 or more than twenty dollars.

332 For keeping a house or enclosed place of public resort for any
333 other than the above mentioned purposes, not less than five,
334 or more than twenty dollars.

335 The above limits apply to licenses for one year, and for parts
336 of a year, ending always on the first day of July, the charge
337 shall be in the like proportion, except that a period less than
338 two months shall be deemed and taken to be two months.

339 17. All the above licenses shall be granted when applied for,
340 and issued upon compliance with the conditions hereinafter
341 prescribed, if the supervisors, or a majority of the whole num-
342 ber elected, are satisfied, and shall so enter upon their journal
343 that the persons applying for them are of good character and de-
344 meanor, and not of intemperate habits, but not otherwise. The
345 license in each case shall be issued by the clerk, and shall be of
346 force for the period applied for and stated therein, when the
347 proper fee or charge therefor has been paid to the treasurer of
348 the county, and one of his duplicate receipts therefor filed with
349 the clerk; and, if the license grants the privilege of selling to
350 be drunk at the place where sold, or of retailing in quantities
351 less than five gallons, wines and spirituous and malt liquors,
352 when the applicant has also filed with the clerk his bond with
353 security, to be approved by that officer, in the penal sum of one
354 thousand dollars, payable to the supervisors of the county by
355 their corporate name, and conditioned that the applicant, dur-
356 ing the time for which such license is granted, will not permit
357 any person to drink to intoxication upon any premises of which

358 he may have the control, and will not sell or furnish any such
359 wines or liquors to any person intoxicated at the time, or to any
360 person under the age of eighteen years. For preparing and
361 issuing each license, and for each bond taken under this sec-
362 tion the clerk may charge and receive a fee of fifty cents.

363 18. Upon creditable complaint in writing made to him, or
364 upon his own knowledge of any breach of the condition of any
365 such bond as is mentioned in the preceding section, the prose-
366 cuting attorney for the county shall from time to time put such
367 bond in suit in the name of the supervisors, and recover for
368 each breach of the condition thereof the sum of ten dollars, un-
369 til the penalty is exhausted. All such penalties when collected,
370 and the one-half of all license fees paid into the county treas-
371 uary, shall be divided among the townships of such county in
372 proportion to the assessed value of the taxable property of
373 each, and shall be applied by them to free school purposes on-
374 ly, including the erection, improvement, furnishing and repair
375 of school-houses.

376 19. It shall be lawful for the clerk of any county, without
377 application to the board of supervisors, to issue licenses for the
378 public exhibition of theatrical, musical, minstrel, or other simi-
379 lar performances, or of a circus, menagerie or other show, where
380 a charge is made for admission, on the applicant for any such
381 license paying to the treasurer, and filing his receipt therefor
382 with the clerk, not less than two, or more than ten dollars for

383 each day of exhibition authorized by such license, as the board
384 of supervisors of such county may by general ordinance direct.

385 20. This act shall be in force from its passage.

HOUSE BILL No. 59.

**A BILL MAKING APPROPRIATIONS FOR THE
CONTINGENT EXPENSES OF THE PUBLIC
OFFICERS.**

Be it enacted by the Legislature of West Virginia:

1 1. There is hereby appropriated the sum of one
2 thousand dollars for the contingent expenses of
3 the offices of the Auditor, Treasurer, Secretary
4 of the State and Adjutant General.

5 2. This act shall be in force from its passage.

HOUSE BILL No. 60.

A BILL TO PROVIDE FOR THE ELECTION TO BE HELD
ON THE FOURTH THURSDAY OF OCTOBER, IN THE
YEAR EIGHTEEN HUNDRED AND SIXTY-THREE.

Be it enacted by the Legislature of West Virginia:

1 1. An election shall be held on the fourth Thursday of Oc-
2 tober, in the year eighteen hundred and sixty-three, for the
3 election of Delegates to the Legislature for the several coun-
4 ties and delegate districts; one or more assessors for every
5 county; a Senator for each Senatorial district, and a Repre-
6 sentative in the Congress of the United States for each Con-
7 gressional district.

8 2. The said election shall be held at the several places of
9 voting established in each county by the laws in force on the
10 nineteenth day of June, eighteen hundred and sixty-three, not-
11 withstanding any act passed at the present session abolishing
12 the former election precincts and the places for holding elec-
13 tions therein.

14 3. The persons named in the schedule hereto annexed, be-
15 ing three for each county, shall act as *Superintendents* of the
16 said election for their respective counties. Any two of the
17 superintendents for a county may act, and they may fill va-
18 cancies in their own body; but if there be no superintendents

19 for any county, or not more than one willing to act, the sher-
20 iff of such county shall appoint the number necessary to fill
21 the vacancies.

22 4. The superintendents for the county shall, for every place
23 of voting therein, appoint three *Commissioners*, any two of
24 whom may act, and a *Conductor*, to superintend and conduct
25 the election at the place for which they are appointed, and
26 shall procure and furnish to them proper ballot boxes, poll
27 books and forms.

28 5. If at the time the polls should be opened, there be, at
29 any place of voting, but one commissioner willing to act, he
30 shall associate with himself as a commissioner, some freeholder
31 of the county then present; and if there be no commissioner
32 willing to act, any two freeholders of the county may act as
33 commissioners. If there be no conductor present willing to
34 act, the commissioners may appoint one. The commissioners
35 may appoint the necessary clerks or writers.

36 6. Every superintendent, commissioner, conductor, and
37 clerk, before entering on the discharge of his duties, shall
38 make oath that he will support the Constitution of the United
39 States and the Constitution of this State, and that in the elec-
40 tion about to be held, he will faithfully and impartially dis-
41 charge the duties of his office according to law. The com-
42 missioners may administer the oath to each other, and any one
43 of them may administer it to the conductor and clerks.

44 7. The polls shall not be opened before sunrise and shall
45 be closed at sunset.

46 8. The commissioners shall admit all persons to vote who
47 are entitled to vote under the first section of the third article
48 of the Constitution. And any person so entitled, who is
49 necessarily absent from the county on the day of the election,
50 by reason of his duties in the service of the United States or
51 of this State, may, within fifteen days preceding the day of
52 the election, enclose his ballot in an envelope, which he shall
53 seal up, and write his signature in his own proper hand on the
54 outside of the said envelope, and address the same to the Su-
55 perintendents of the election for the county of which he is a
56 resident, either by their names or official designation, and
57 transmit the same to them or one of them by mail or otherwise.
58 And if such envelope and enclosure be received by the said
59 Superintendents or any one of them, on or before the day of
60 the election, it shall be produced at the polls held at the Court
61 House of the county, and delivered unopened to the commis-
62 sioners, acting at the said Court House, who, if satisfied that
63 the signature on the outside of the envelope is genuine, and
64 that the person whose signature is so endorsed thereon would
65 be, if present, entitled to vote at the said polls, shall open the
66 envelope, and if the ballot found therein be single, shall de-
67 posit the same, without unfolding or unrolling it so as to dis-
68 close its contents, in the ballot box in like manner as if the per-

69 son so transmitting his vote were personally present and offer-
70 ing to vote. And if such ballot be so received and deposited
71 in the box, the clerks shall record the name of the voter on the
72 poll books adding thereto the word "absent." The envelopes
73 in such cases shall be preserved by the commissioners, and be
74 filed by them as soon as possible after the close of the election
75 in the office of the Recorder of the county for public inspec-
76 tion.

77 9. The commissioners, or any one of them, may swear any
78 person to answer questions respecting any right to vote which
79 is claimed. They shall reject the ballots of all persons not
80 entitled to vote; and in all respects cause the said election to
81 be impartially held according to law. The name of every
82 person whose vote is rejected, shall, if he requires it, be enter-
83 ed in a separate list on the poll books under the heading "Re-
84 jected Votes;" and in such case his ballot shall be sealed up
85 by the commissioners in an envelope or cover endorsed "The
86 ballot of A. B, rejected this 22d day of October, 1863," and
87 be returned with the other ballots to the superintendents for
88 the county.

89 10. It shall be the duty of the superintendents for each
90 county to cause the commissioners for every place of voting in
91 the county to be furnished with a proper ballot box, with an
92 aperture in the lid to receive the ballots of those entitled to
93 vote. The box, while the polls are open, shall be kept where

94 it may be seen by the voters. Every person desiring to vote
95 shall offer to the conductor a single ballot, or piece of white
96 paper on which is printed or written, or partly printed and
97 partly written, the names of the persons for whom he intends
98 to vote, with a designation of the office he desires each to fill;
99 which ballot shall be so folded or rolled that its contents can-
100 not be seen. The conductor shall proclaim the name of the
101 person offering to vote, and hand the ballot to the commission-
102 ers, who may examine the same to ascertain if it be single,
103 but without so far unfolding or unrolling it as to disclose its
104 contents; and if they, or a majority of them, are satisfied
105 the ballot is single, and that the person offering it is entitled
106 to vote at the said polls, one of the said commissioners shall
107 deposit the ballot in the box, and the clerks shall enter the
108 name of the voter on the poll books, which shall bear on the
109 first page thereof the heading: "Names of all persons voting
110 at....., in the county of., on the 22d day of
111 October, 1863."

112 11. As soon as possible after the polls are closed, the
113 names entered on the poll books shall be counted by the com-
114 missioners, and the number set down in words at length at
115 the foot of the list, which shall then be signed by the com-
116 missioners, conductor and clerks. The ballot box shall then
117 be opened by the commissioners and the ballots found therein
118 be counted in the presence of all the officers employed in con-

ducting the election, and then be again placed in the box. If the number of ballots exceed the number of the names of the voters entered on the poll books, one of the commissioners, in presence of the other officers, shall promiscuously draw from the box as many ballots as are equal in number to the excess, which, without opening, he shall immediately destroy. One of the commissioners shall then, taking from the box one ballot at a time, read therefrom distinctly the designations of the offices to be filled, and the names of the persons voted for, and hand the ballot to the other commissioner or commissioners, who, if satisfied it was correctly read, shall deliver it to the conductor to be strung by him upon a thread. The contents of the ballots as they are read shall be entered by the clerks, under the supervision of the commissioners, on books or tally papers provided for the purpose, by suitable marks opposite to or under the name of each person voted for, so as to show the number of votes received by every person for any office. If two or more ballots be found folded or rolled up together, they shall be rejected and immediately destroyed; and if any ballot be found to contain more than the proper number of names for any office, it shall not be counted as to the said office.

12. When the result is fully ascertained, the commissioners shall immediately make and sign two certificates to the following effect: "We the undersigned, commissioners of the

144 election held at in the county of on the
 145 twenty second day of October, eighteen hundred and sixty-
 146 three, do hereby certify, that having been first duly sworn,
 147 we have fairly and impartially held the said election accord-
 148 ing to law, and that the result thereof is as follows: For
 149 Delegate, A B received.....votes, and C D.....votes;
 150 For Assessor, E F received votes, and G H.....
 151 votes; For Senator, J K received.....votes, and L M
 152 votes; And for Representative in the Congress of the
 153 United States, N O received votes, and P R.....
 154 votes;" and so on, stating according to the truth the name of
 155 every person voted for for either of the said offices, and the
 156 number of votes he received for the same, and concluding as
 157 follows: "Given under our hands this.....day of October,
 158 1863." The ballots shall then be enclosed by the commis-
 159 sioners in an envelope or cover, which they shall seal up,
 160 and write their names across the seals, and endorse on the
 161 envelope or cover the following: "Ballots of the election
 162 held at.....in the county of.....on the 22d day
 163 of October, 1863." The said commissioners or one of them,
 164 shall, on or before the twenty-seventh day of October, eigh-
 165 teen hundred and sixty-three, deliver the ballots so sealed up,
 166 one copy of the poll books, and one of the said certificates,
 167 to the superintendents of the election for the county; and
 168 deposit the other copy of the poll books and the other cer-

169 tificate in the office of the recorder of the county, to be there
170 preserved.

171 13. The superintendents of the election for the county, or
172 a majority of them, shall on or before the thirty-first day of
173 October, eighteen hundred and sixty-three, carefully and im-
174 partially ascertain from the returns received by them as
175 aforesaid, the result of the said election within their county.
176 For this purpose, they may, if deemed necessary or proper,
177 open and examine any of the sealed packages of ballots; but
178 in such case, they shall seal up the same again, along with
179 the original envelope or cover, in another envelope or cover,
180 and write their names across the seals, and endorse on the
181 outside "Ballots of the election held at.....in the
182 county of this 22d day of October, 1863." When
183 they shall have made their certificates as hereinafter provi-
184 ded, they shall return the ballots to the office of the recorder
185 of the county to be there preserved.

186 14. The superintendents of the election for each county,
187 or a majority of them, having ascertained as aforesaid, the
188 result of the election within their county, shall forthwith
189 make and sign the requisite number of certificates to the fol-
190 lowing effect: "We the undersigned, superintendents of the
191 election held in the county of on the twenty-sec-
192 ond day of October, eighteen hundred and sixty-three, do
193 hereby certify, that having first been duly sworn, we have

194 carefully and impartially examined the returns made to us of
 195 the said election, and that, in our said county, for the office
 196 of Delegate, A B received votes, C D votes,
 197 E F. votes;” and so on, stating according to the truth
 198 the name of every person voted for for the said office and the
 199 number of votes received by him in the county; and conclu-
 200 ding as follows: “Given under our hands this day of.....
 201 1863.” They shall in like manner and form make and sign
 202 separate certificates of the result within their county of the
 203 election for Assessor or Assessors for the county, for Senator
 204 in the Legislature of the State, and for Representatives in
 205 the Congress of the United States.

206 15. The certificates made and signed by the superinten-
 207 dents for the county, pursuant to the last section, shall be by
 208 them disposed of as follows: Of the certificates respecting
 209 the Delegate election, they shall transmit one, by some safe
 210 and certain conveyance, to the Clerk of the House of Dele-
 211 gates, at the Seat of Government, who shall carefully pre-
 212 serve the same in his office, and shall submit the same, to-
 213 gether with a list of the persons appearing thereby to be
 214 elected, to the House, as soon as it shall thereafter assemble.
 215 The said superintendents shall also, if demanded, deliver one
 216 of their said certificates to each person appearing to them to
 217 have been elected a Delegate. Of the certificates respecting
 218 the election of the Assessor or Assessors for the county, they

219 shall, if demanded, deliver one to each person appearing to
220 them to be elected to the said office. Of the certificates re-
221 specting the Senatorial election, they shall transmit one by
222 some safe and certain conveyance to the Clerk of the Senate
223 at the Seat of Government, who shall carefully preserve the
224 same in his office, and submit them to the Senate as soon as
225 it shall thereafter assemble, with a list of the persons appear-
226 ing thereby to be elected. Of the certificates respecting the
227 election of Representatives in the Congress of the United
228 States, they shall transmit one by some safe and certain con-
229 veyance to the Secretary of the State at the Seat of Gov-
230 ernment. And in each case they shall deposit one of their
231 said certificates in the office of the recorder of their county,
232 to be there carefully preserved subject to the order of the
233 Governor, or of either Branch of the Legislature.

234 16. Where the Governor for any reason, deems it necessa-
235 ry or proper to do so, he may, by special messenger or other-
236 wise, send for and procure proper and sufficient returns from
237 any county or counties in which the said election shall have
238 been held.

239 17. From the said certificates and returns respecting the
240 election for Representatives in the Congress of the United
241 States, the Governor shall ascertain who are elected to the
242 said office; and shall give to each of the persons so elected a
243 certificate under the great seal of this State, to the following
244 effect:

245 "State of West Virginia, to wit:

246 I Governor of said State, pursuant to the act
 247 of the Legislaturc thereof, in such case made and provided,
 248 do hereby certify that A B, of the county of, was
 249 duly sworn on the twenty-second day of October, in the year
 250 eighteen hundred and sixty-three, a Representative in the
 251 Congress of the United States, for the congressional
 252 district of this State composed of the counties of,
 253 for the term ending on the third day of March, in the year
 254 eighteen hundred and sixty-five. Given under my hand and
 255 the great seal of the said State of West Virginia, this
 256 day of"

257 18. In all certificates required by this act to be made
 258 where the number of votes for any person is to be stated,
 259 such number shall be written out in words at length.

260 19. This act shall be in force from its passage.

SCHEDULE.

SUPERINTENDENTS OF THE ELECTION FOR THE COUNTY OF

Barbour,-----
 Berkeley,-----
 Boone,-----
 Braxton,-----
 Brooke,-----
 Cabell,-----
 Calhoun,-----
 Clay,-----
 Doddridge,-----
 Fayette,-----
 Gilmer,-----

Greenbrier,-----
Hancock,-----
Hampshire,-----
Hardy,-----
Harrison,-----
Jackson,-----
Kanāwha,-----
Lewis,-----
Logan,-----
Marion,-----
Marshall,-----
Mason,-----
McDowell,-----
Mercer,-----
Monongalia,-----
Monroe,-----
Morgan,-----
Nicholas,-----
Ohio,-----
Pendleton,-----
Pleasants,-----
Pocahontas,-----
Preston,-----
Putnam,-----
Raleigh,-----
Randolph,-----
Ritchie,-----
Roane,-----
Taylor,-----
Tucker,-----
Tyler,-----
Upshur,-----
Wayne,-----
Wetzel,-----
Webster,-----
Wirt,-----
Wood,-----
Wyoming,-----

HOUSE BILL No. 61.

**A BILL FOR THE RELIEF OF WILLIAM H.
SHAW, SHERIFF OF PUTNAM COUNTY.**

Be it enacted by the Legislature of West Virginia:

- 1 1. The Auditor is hereby instructed to credit
2 William H. Shaw, Sheriff of Putnam county,
3 with twenty-three dollars, in the settlement of
4 the said Shaw for the revenue of said county for
5 the year 1862; the said sum having been taken
6 by force, by armed rebels, from Benjamin P.
7 Morris, deputy of said Sheriff, in January, 1863.
- 8 2. This act shall be in force from its passage.

HOUSE BILL No. 62.

A BILL PROVIDING FOR THE FORMATION OF CORPORATIONS, AND REGULATING THE SAME.

Be it enacted by the Legislature of West Virginia:

1 1. Corporations may be formed under this act—

2 I. For manufacturing, mining or insuring;

3 II. For savings institutions, savings banks, or banks exclu-
4 sively of discount and deposit;

5 III. For constructing lines of magnetic telegraph, and car-
6 rying on the business properly pertaining to telegraph compa-
7 nies.

8 IV. For establishing hotels, springs companies, gas works,
9 water works, cemeteries, or building associations, and transact-
10 ing the business properly pertaining thereto.

11 V. For universities, colleges, academies, seminaries, schools or
12 institutes, for the purpose of teaching any branch or branches
13 of useful information or learning, or promoting religion, moral-
14 ity, military science and discipline, or the diffusion of knowl-
15 edge; including library companies and literary and scientific
16 associations;

17 VI. For benevolent associations, orphan, blind and lunatic
18 asylums, and hospitals;

19 VII. For gymnastic associations;

20 VIII. And for any other purpose or business for which a firm
21 or copartnership may be lawfully formed in this State.

22 2. But this act shall not be construed to authorize the incor-
 23 poration of a bank of circulation, or of a company for the con-
 24 struction of any work of internal improvement, or of any
 25 church or religious denomination, or of any company the object,
 26 or one of the objects, of which may be to purchase lands and
 27 resell the same for profit.

28 3. The capital of every corporation formed under this act
 29 shall be divided, as may be agreed upon by the persons desiring
 30 to be incorporated, into shares of ten dollars each, or some mul-
 31 tiple of that sum, or into shares of twenty-five dollars each.

32 4. The capital of a corporation formed under this act shall
 33 not exceed five hundred thousand dollars.

34 5. Any number of persons not less than five, desiring to be-
 35 come a corporation for any purpose or business designated in
 36 the first section, shall sign an agreement to the following effect:

37 "The undersigned agree to become a corporation by the name
 38 of [here insert the name by which it is intended the corpora-
 39 tion shall be known,] for the purpose of [here describe fully
 40 and particularly the purpose for which the corporation is to be
 41 formed and the kind of business intended to be carried on by
 42 it,] which corporation shall keep its principal office or place of

43 business at in the county of and is to expire on

44 the day of eighteen hundred and . And

45 for the purpose of forming the said corporation, we have sub-
 46 scribed the sum of dollars to the capital thereof, and have

47 paid in, on said subscriptions, the sum of dollars; and de-

48 sire the privilege of increasing the said capital, by sales of ad-
49 ditional shares from time to time, to dollars in all. The
50 capital so subscribed is divided into shares of dollars,
51 each, which are held by the undersigned respectively as follows.
52 that is to say: by [here insert the full name of each corporator,
53 with his place of residence, and the number of shares held by
54 him,] and the capital to be hereafter sold is to be divided into
55 shares of the like amount. Given under our hands, this
56 day of eighteen hundred and .”

57 6. No corporation to be formed under this act shall be al-
58 lowed to adopt or use any name, if there be another corporation
59 in this State having the same name.

60 7. No person shall be included as a corporator in any such
61 agreement, by reason of any stock subscribed for by him, unless
62 he has, in good faith, paid to the person who may have been ap-
63 pointed or agreed upon to receive the same for the intended
64 corporation, at least ten per cent. of the par value of the said
65 stock.

66 8. The said agreement shall be acknowledged by the several
67 corporators, in person and not by attorney, before a justice, no-
68 tary or judge; and such acknowledgments shall be certified by
69 the officers before whom they are made. If any such acknowl-
70 edgment be made before a justice, notary or judge of another State
71 or country, proper evidence of the official character of the offi-
72 cer certifying the same, shall accompany his certificate. The
73 affidavits of at least two of the corporators named in the agree-

74 ment shall be annexed thereto, to the effect that the amount
 75 therein stated to be paid on the capital, has been in good faith
 76 paid in, in lawful money, for the purposes and business of the
 77 intended corporation, without any intention or understanding
 78 that the same shall be withdrawn therefrom before the expira-
 79 tion or dissolution of the corporation.

80 9. The agreement, with the acknowledgments and affidavits
 81 aforesaid, shall be delivered to the Secretary of the State, who
 82 shall thereupon issue to the said corporators, his certificate, un-
 83 der the great seal of the State, to the following effect:

84 "I, A B, Secretary of the State of West Virginia, hereby cer-
 85 tify that an agreement, duly acknowledged, and accompanied
 86 by the proper affidavits, has been this day delivered to me,
 87 which agreement is in the words and figures following: (here in-
 88 sert it.) Wherefore the corporators named in the said agree-
 89 ment and who have signed the same, are hereby declared to be,
 90 from this date, until the day of eighteen
 91 hundred and a corporation by the name and for the
 92 purposes set forth in the said agreement. Given under my hand
 93 and the great seal of the said State, at this
 94 day of eighteen hundred and ."

95 10. When a certificate of incorporation shall be issued by the
 96 Secretary of the State pursuant to this act, the corporators
 97 named in the agreement recited therein, and who have signed
 98 the same, and their successors, associates and assigns, shall from
 99 the date of the said certificate until the time designated in the

99½ said agreement for the expiration thereof, unless sooner dissolved according to law, be a corporation by the name and for the purposes and business therein specified. And the said certificate of incorporation shall be received in all Courts and places as legal evidence of the existence of the corporation, as aforesaid.

105 11. But no corporation under this act shall continue longer than twenty years.

107 12. The stockholders of any corporation now existing in this State, banks of circulation and companies incorporated for the construction of works of internal improvement excepted, may by resolution in general meeting, accept the provisions of this act. And thereupon a copy of the resolution shall be filed with the Secretary of the State, together with a statement showing the name by which the corporation had theretofore been known, and the name, whether it be the same or a different one, by which it is intended it should be known thereafter; the business intended to be carried on: the place where such business is to be carried on and where the principal office is to be kept; the time when the corporation is to expire, subject to the limitation contained in the eleventh section of this act; the amount of the whole capital, the amount of capital paid in; the amount to which it is intended to reserve the privilege of increasing the same; and the par value of each share; which copy and statement shall be certified by the President under his hand and the common seal of the corporation. And the

125 Secretary of the State shall thereupon issue a certificate of
126 incorporation under his hand and the great seal of this State,
127 reciting the said resolution and statement, and declaring the
128 said corporation to be thereafter, until the time mentioned in
129 the said statement for the expiration thereof, a corporation by
130 the name which it is intended it should thereafter bear, and for
131 the purposes and business therein set forth, unless sooner dis-
132 solved according to law. Certificates of incorporation issued
133 pursuant to this section shall be received in all Courts and
134 places as legal evidence of the existence of the corporation as
135 therein declared; and the said corporations shall no longer be
136 under their former charters, but shall have all the rights,
137 privileges and powers conferred by this act, and shall be sub-
138 ject to the liabilities, restrictions and regulations herein pre-
139 scribed.

140 13. If the stockholders of any corporation now existing in
141 this State, including banks of circulation and companies in-
142 corporated for the construction of works of internal improve-
143 ment; or the stockholders of any corporation which may be
144 formed under this act, or otherwise, desire to change the name
145 thereof, and shall pass in general meeting a resolution to that
146 effect, stating the name by which it is intended the corporation
147 should be thereafter known, there being no other corporation
148 of the same name in this State, the President shall thereupon,
149 under his signature and the common seal of the corporation,
150 certify the said resolution to the Secretary of the State, and the

151 Secretary shall issue, under his hand and the great seal of this
152 State, a certificate reciting the said resolution, and declaring
153 that the corporation is to be thereafter known by the new name
154 so adopted by the stockholders; and the said certificate shall
155 be received in all courts and places as legal evidence of the
156 change of name therein specified.

157 14. No debt, contract, right or liability previously existing,
158 or any warrant, proceeding, motion, suit or process then pend-
159 ing, shall be affected or impaired by any thing that may be
160 done under either of the last two sections.

161 15. The Secretary of the State shall carefully preserve in his
162 office the agreements specified in the fifth section of this act,
163 with the acknowledgments and affidavits accompanying the
164 same; and also the resolutions and statements mentioned in the
165 twelfth and thirteenth sections. He shall cause to be accu-
166 rately recorded in a well bound book to be used for that pur-
167 pose exclusively, all certificates of incorporation and certificates
168 of change of name he may issue pursuant to this act. If he
169 neglect to record any such certificate, or if any error be dis-
170 covered in the record of any such certificate, he shall forfeit for
171 every such neglect or default not less than ten nor more than
172 fifty dollars. At the beginning of every regular session of the
173 Legislature, he shall deliver to the clerk of the House of Dele-
174 gates accurate copies of all original certificates of incorpora-
175 tion, and certificates of change of name, not before reported by
176 him; and it shall be the duty of the said clerk to cause the

177 same to be printed and bound with the acts of the session. If
178 the said secretary or clerk fail herein, the party so in default
179 shall forfeit not less than ten nor more than fifty dollars.

180 16. The Secretary of the State may, at any time, on appli-
181 cation of a party interested, issue, under his hand and the great
182 seal of this State, certified copies of any certificate of incor-
183 poration or certificate of change of name, recorded in his office;
184 and such copies, as evidence, shall have the same effect as the
185 originals. The copies printed with the acts of the Legislature,
186 as prescribed by the preceding section, shall also, as evidence,
187 have the same effect as the original certificates.

188 17. For issuing a certificate of incorporation or change of
189 name or a certified copy thereof, under the great seal of this
190 State as aforesaid, the Secretary of the State may charge a fee
191 of five dollars; and for recording the originals as required by
192 the fifteenth section, a fee of fifteen cents for every hundred
193 words; which fees shall be paid at the time the service is ren-
194 dered by the person at whose instance it is done.

195 18. Every corporation for which a certificate of incorpora-
196 tion shall be issued in conformity with the ninth and twelfth
197 sections of this act, shall until the expiration or dissolution
198 thereof, have perpetual succession, and a common seal, which it
199 may alter and renew at pleasure. It may sue and be sued,
200 plead and be impleaded, answer and be answered, at law or in
201 equity. It may, in any case and in any manner in which it
202 would be lawful for a natural person so to do, but subject to

203 the restrictions and regulations herein contained, contract and
 204 be contracted with; purchase, acquire, hold and use real and
 205 personal estate, stocks and securities, or any interest or right
 206 therein; and grant, convey, sell, assign, lease, mortgage, con-
 207 vey in trust, pledge, encumber or otherwise dispose of the
 208 same. It may, in general meeting of its stockholders, make
 209 by-laws and regulations not inconsistent with the laws of this
 210 State, for the government of its board of directors, officers and
 211 agents, the management of its property and business, and the
 212 due and orderly conducting of its affairs. And generally, it
 213 may do, for the purposes for which it is incorporated and in
 214 the transaction of its proper business, but subject to the re-
 215 strictions and regulations herein contained, whatever it would
 216 be lawful for a natural person to do.

217 19. No such corporation shall employ its capital, money or
 218 effects, or otherwise engage, in the purchase of real estate in
 219 order to resell the same for profit; or in transactions not prop-
 220 er for the purposes or business expressed in its certificate of
 221 incorporation.

222 20. No such corporation shall loan any part of its capital to
 223 its stockholders or directors; or subscribe for or purchase any
 224 share or shares of its own stock, or of the stock of any other
 225 corporation, unless specially allowed by law. But insurance
 226 companies, savings institutions, savings banks and banks exclu-
 227 sively of discount and deposit, may invest their capital and

228 funds, or such part thereof as they may deem it prudent to do,
229 in the stocks of other corporations of this State.

230 21. It shall not be lawful for any corporation formed or con-
231 tinued under this act to hold more real estate than is proper
232 for the purposes for which it is incorporated. And the corpo-
233 rations mentioned below in this section shall not hold at any
234 time a greater quantity of land than is hereby authorized, that
235 is to say: A manufacturing company may hold one hundred
236 acres; a company for mining iron, lead or copper ore, and man-
237 ufacturing the same into metal, ten thousand acres for every
238 charcoal blast furnace, and three thousand acres for every other
239 furnace; a company mining for coal, three thousand acres; other
240 mining companies, two thousand acres each; a hotel company,
241 five acres; a springs company, fifteen hundred acres; a ceme-
242 tery company, thirty acres; a gas or water company, fifteen
243 acres; a telegraph company, two acres; and building associa-
244 tions, and the several corporations mentioned in clauses V, VI,
245 VII and VIII of the first section of this act, five acres each.

246 And in no case shall any corporation subject to this act, hold
247 more than five acres of land in a city or incorporated town.

248 22. But nothing in this act contained shall prevent any cor-
249 poration from taking stocks or real estate as a payment, in
250 whole or in part, of any debt owing to it, or as security there-
251 for; or from purchasing stocks and other property at any sale
252 made for its own benefit. And if any corporation subject to
253 this act lawfully acquire any share or shares of its own stock,

254 it may either extinguish the same, or sell and transfer the same
255 to a purchaser; but no vote shall be given on such stock while
256 held by the corporation.

257 23. In a meeting of the stockholders of a corporation subject
258 to this act, every stockholder may, in person or by proxy, give
259 the following vote on whatever stock he may hold in the same
260 right, that is to say: one vote for every share of stock not ex-
261 ceeding twenty; one vote for every two shares over twenty and
262 not exceeding one hundred; and one vote for every four shares
263 exceeding one hundred.

264 24. When a vote is offered at any meeting of stockholders,
265 upon stock transferred within sixty days before such meeting,
266 such vote shall not be counted, if any stockholder present ob-
267 ject thereto, unless the stockholder, whose vote is so objected
268 to, has made or shall make oath that the stock on which such
269 vote is to be given, is held by him, in good faith, and not by
270 virtue of a transfer made with intent to obtain more votes
271 than is allowed by law.

272 25. No officer or director of a corporation subject to this
273 act shall vote as the proxy of a stockholder; nor shall any
274 proxy be valid which was executed sixty days before the meet-
275 ing at which it is offered to vote thereon.

276 26. An annual meeting of the stockholders of every corpo-
277 ration subject to this act shall be held at such time and place as
278 may be prescribed by the by-laws, or if there be no such by-
279 law, then on the fourth Tuesday of January. A general meet-

ing of the stockholders may be called at any time by the board of directors, or by any number of stockholders holding together at least one-fifth of the capital. Notice of the annual or any other general meeting shall be given in such manner as the by-laws may direct, or if there be no such by-law, by advertising the same once a week for two weeks, at least, in some newspaper of general circulation published near the principal office or place of business of the company.

27. The number of stockholders, or amount of stock necessary to constitute a quorum at a meeting of stockholders, and the mode of transacting business at such meetings, may be prescribed by the by-laws. If there be no such by-law, a majority of the stock must be present, in person or by proxy, to constitute a meeting. But if a sufficient number do not attend at the time and place appointed, those who do attend may adjourn from time to time until a meeting is regularly constituted. Every meeting of stockholders may adjourn from time to time till its business is completed.

28. A list of the stockholders, showing the number of shares and votes to which each is entitled, shall, for one month before every annual meeting, be hung up in the most public room at the principal office or place of business of the corporation.

29. When any certificate of incorporation is issued under the ninth section of this act, the incorporators named in the agreement recited therein, or a majority of them, shall appoint the time and place for holding a general meeting of the stockhold-

306 ers to elect a board of directors, make by-laws, and transact
307 any other business which may lawfully be done by the said
308 stockholders in general meeting. The time appointed for the
309 meeting shall be not less than twenty-one, nor more than nine-
310 ty days from the date of the certificate, and at least two weeks
311 notice of such meeting shall be given by advertisement in the
312 manner prescribed in the twenty-sixth section.

313 30. When a certificate of incorporation is issued to an exis-
314 ting corporation pursuant to the twelfth section, the board of
315 directors and officers may continue to act in their respective
316 capacities until the next annual meeting of the stockholders,
317 and thereafter until their successors are elected, or appointed,
318 and qualified; or a general meeting of stockholders may be
319 called, in the manner prescribed in the twenty-sixth section, to
320 elect a new board, or make such order in the matter as they
321 may deem right.

322 31. For every corporation subject to this act there shall be
323 a board of directors, who shall have power to do, or cause to
324 be done, all things that are proper to be done by the corpora-
225 tion. The stockholders may in general meeting, by a by-law,
326 prescribe the number of which the boards shall consist; but
327 unless a different number be so prescribed, there shall be five
328 directors. They may also, by by-law, prescribe the qualifica-
329 tions of directors; but if it be not otherwise provided, every
330 director must be a resident of this State and a stockholder.
331 The directors shall be elected at the annual meeting of the

332 stockholders, or as soon thereafter as practicable, and shall hold
333 their offices until their successors are elected and qualified.
334 The stockholders in general meeting may remove any director
335 and fill the vacancy; but any vacancy not caused by such re-
336 moval, may be filled by the Board. A majority of the board
337 shall constitute a quorum, unless it be otherwise provided in
338 the by-laws; and if the number of the board be reduced at any
339 time so as to interrupt the proper and efficient management of
340 the business of the corporation, a general meeting of the stock-
341 holders may be called to elect new directors, or take such order
342 in the premises as they may deem proper.

343 32. As soon as may be after their election the Board of Di-
344 rectors shall choose one of their own body president of the cor-
345 poration; who shall act as such till his successor is qualified,
346 without ceasing, however, to be a member of the Board. Dur-
347 ing the absence of the president, the board may appoint a pres-
348 ident *pro tempore*, who, for the time, shall discharge the offi-
349 cial duties of the president.

350 33. The board shall hold meetings at such time as they see
351 fit, or the president shall require. They may by resolution,
352 prescribe when their regular meeting shall be held, how spe-
353 cial meetings shall be called, and what notice of their meetings
354 shall be given.

355 34. They shall keep a record of all their resolutions and pro-
356 ceedings, which shall be verified by the signature of the presi-
357 dent or president *pro tempore*. No member of the board shall

358 vote on a question in which he is interested otherwise than as
359 a stockholder, or be present at the board while the same is
360 being considered; but if his retiring from the board in such
361 case reduce the number present below a quorum, the question
362 may nevertheless be decided by those who remain. On any
363 question, the names of those voting each way shall be entered
364 on their minutes, if any member, at the time, require it.

365 35. The board of directors shall appoint such officers and
366 agents of the corporation as they deem proper, and prescribe
367 their compensation; but there shall be no compensation for
368 services rendered by the president or any director, unless
369 it be allowed by the stockholders. The officers and agents so
370 appointed shall hold their places during the pleasure of the
371 board; and if required by the board, or the by-laws, shall give
372 bonds payable to the corporation, in such penalties, and with
373 such conditions and security as the board may approve.

374 36. The board of directors shall cause regular and correct
375 books of account to be kept, and to be settled and balanced
376 once, at least, every six months.

377 37. They shall make a report to the stockholders at the an-
378 nual meeting, of the condition of the corporation. The report
379 shall show the property and funds belonging to the corpora-
380 tion, and the estimated value thereof; the debts due to it, dis-
381 tinguishing such as are believed to be good, from those consid-
382 ered doubtful or hopeless; the debts and liabilities of the cor-
383 poration; the nominal amount of the capital stock; and the

384 estimated surplus or deficiency, as the case may be. It shall
385 also state the amount of dividends declared, and the losses in-
386 curred or profits accruing during the preceding year.

387 38. The property and funds, books, correspondence and pa-
388 pers of the corporation, in the possession or control of any
389 officer or agent thereof, shall, at all times, be subject to the in-
390 spection of the board, or a committee thereof appointed for
391 the purpose, or of any committee appointed for the purpose by
392 a general meeting of the stockholders. The minutes of the
393 resolutions and proceedings of the board shall, for thirty days
394 before the annual meeting of the stockholders, be open to the
395 inspection of any three or more stockholders holding together
396 one-fifth of the capital. They shall be produced when requir-
397 ed by the stockholders at any general meeting.

398 39. The board may, from time to time, declare dividends of
399 so much of the net profits as they may deem it prudent to di-
400 vide. If any stockholder be indebted to the corporation, his
401 dividend, or so much thereof as may be necessary, shall be ap-
402 plied to the payment of the debt, if the same be then due and
403 payable.

404 40. If the board declare a dividend by which the capital of
405 the corporation shall be diminished, all the members present,
406 who do not dissent therefrom, and cause said dissent to be en-
407 tered on the minutes of the resolutions and proceedings, shall
408 be jointly and severally liable to the creditors of the corpora-
409 tion for the amount the capital may have been so diminished;

410 and may be decreed against therefor on a bill in equity filed
411 by any creditor; and moreover every stockholder who has re-
412 ceived any such dividend shall be liable to the creditors for
413 the amount of capital so received by him.

414 41. But the stockholders may at any time, in general meet-
415 ing, resolve to discontinue the business of the corporation, and
416 divide the funds and assets that may remain after paying all
417 debts and liabilities thereof. Public notice of such resolution
418 shall be immediately given by advertisement in some newspa-
419 per of general circulation published near the principal office or
420 place of business of the corporation, for three months, at least,
421 before any dividend of the capital shall be made; and the said
422 resolution shall be forthwith certified by the President under
423 his hand and the common seal of the corporation to the Secre-
424 tary of the State, who shall preserve the same in his office, and
425 deliver a copy to the Clerk of the House of Delegates to be
426 printed and bound with the Acts of the Legislature. As soon
427 as practicable after any such resolution is passed, the stock-
428 holders shall cause ample funds and assets to be set apart,
429 either in the hands of trustees or otherwise, to secure the pay-
430 ment of all debts and liabilities of the corporation; and any
431 creditor who supposes his claim not to be sufficiently secured
432 thereby, whether such claim be then due or thereafter to be-
433 come due, may, on bill in chancery and proper evidence in sup-
434 port thereof, obtain an injunction to prevent the distribution of
435 the capital, and a decree against any stockholder for the amount

436 of the capital received by him; and if necessary or proper in
437 the case, may have a receiver appointed to take charge of and
438 administer the funds and assets of the said corporation.

439 42. If any corporation to which a certificate shall have been
440 issued under the ninth section of this act, be not organized by
441 the election of a board of directors within six months after the
442 date of such certificate: or if any corporation to which a cer-
443 tificate shall have been issued under either the ninth or twelfth
444 section, suspend its operations for twelve months continuously,
445 it shall be deemed dissolved.

446 43. The board of directors in the exercise of all powers con-
447 ferred by this act, shall be subject to such by-laws and regula-
448 tions as the stockholders may pass from time to time in general
449 meeting.

450 44. After a certificate of incorporation is issued pursuant to
451 the ninth section of this act, and before a board of directors
452 are elected and qualified, additional shares of the capital of
453 the corporation may be disposed of, so that the *maximum* cap-
454 ital be not exceeded, in such manner, on such terms, at such
455 times and places, and under the superintendence of such per-
456 sons, as the incorporators named in the agreement recited in the
457 certificate of incorporation, or a majority of them, may order
458 or direct.

459 45. But when there is a board of directors for any corpora-
460 tion to which a certificate may have been issued under either the
461 ninth or the twelfth section, the disposal of additional shares

462 to increase the capital, shall be subject to the order and direc-
463 tion of the board for the time being, so that the *maximum* cap-
464 ital be not exceeded.

465 46. In no case shall stock be sold or disposed of at less than
466 par, in order to increase the capital; and no stock shall be re-
467 garded as taken, or the person subscribing therefor be consid-
468 ered entitled to the same, until the first instalment thereon be
469 paid.

470 47. If more than the amount necessary to make up the *max-*
471 *imum* capital be at any time subscribed, the subscriptions shall
472 be reduced to the proper amount by deducting the excess from
473 the largest subscriptions, in such manner that no subscription
474 shall be reduced while any one remains larger.

475 48. At least ten per cent. on the par value of every share
476 shall be paid at the time of subscription; and the residue as
477 required by the board of directors.

478 49. If any person who has received for any corporation sub-
479 ject to this act, any sum of money on any share or shares sub-
480 scribed to the capital thereof, shall fail to account for and pay
481 over the same as the board of directors may require; or if any
482 stockholder fail to pay any instalment upon his shares when
483 required by the board; the corporation may recover from the
484 party so in default, the principal sum due, with interest there-
485 on at the rate of ten per cent. per annum until paid, and costs,
486 by warrant or action according to the amount, or by motion on
487 ten day's notice in lieu of an action; or such shares may, after

488 two weeks notice published in a newspaper of general circula-
489 tion printed near the principal office or place of business of the
490 company, be sold at public auction for ready money, and be
491 transferred to the purchaser or purchasers by such person as
492 the board shall for that purpose appoint.

493 50. Out of the proceeds of such sale, there shall be paid the
494 expenses thereof, and the money which ought to have been paid
495 on the said shares, with interest thereon at the rate of two per
496 cent per annum until paid, and any surplus shall be paid to the
497 delinquent stockholder.

498 51. If there be no sale for want of bidders, or if the sale do
499 not procure sufficient to pay the expenses, and the money which
500 ought to have been paid, with interest as aforesaid, the corpo-
501 ration may recover from such stockholder whatever may re-
502 main unpaid, with interest at the rate mentioned in the prece-
503 ding section, and costs, by warrant, action or motion as afore-
504 said.

505 52. Any corporation subject to this act may, by by-law, re-
506 quire every stockholder, who shall not have paid up his stock
507 in full, to give bond and security for the payment in such
508 instalments as the Board of Directors may require, of the res-
509 idue remaining unpaid on his stock. And in such case, bond
510 shall be given in a penalty equal to the whole par value of the
511 stock, with one or more sureties to be approved by the board:
512 or in lieu of personal security, it shall be secured by pledge of
513 stocks or securities, or by deed of trust or mortgage on real

514 estate, to the satisfaction of the board. Such bonds shall be
515 payable to the corporation, and be conditioned for the pay-
516 ment at such times and in such instalments as the board of di-
517 rectors may require, of the residue due by such stockholder on
518 the share or shares held by him. And if any stockholder who
519 has given bond and security as aforesaid, fail to pay any instal-
520 ment on his stock when thereto required by the board, the cor-
521 poration may recover against all the obligors of the bond, or
522 any one or more of them, the amount of such instalment, with
523 interest thereon at the rate of ten per cent per annum till paid,
524 and costs, by warrant, action or motion as aforesaid; or by sale
525 or collection of the stocks and securities pledged or the prop-
526 erty conveyed in trust or mortgaged as aforesaid; or the shares
527 held by such delinquent stockholder may be sold and transfer-
528 red, and the proceeds applied, and the balance, if any, then
529 remaining unpaid be recovered, in the manner specified in the
530 preceding three sections. If the corporation proceed in any
531 one of the modes prescribed in this section, it shall not bar or
532 preclude it from afterwards resorting to any other mode of
533 collecting the residue that may remain unpaid.

534 53. When bonds are taken, according to the last section, for
535 the unpaid residue of the stock, it shall be the duty of the
436 board of directors to examine, from time to time, the said bonds
537 and the securities pertaining thereto. And if they deem any
538 such bond or security to be insufficient or doubtful, they shall
539 require new bond and security in lieu thereof, and so, from

540 time to time, thereafter, whenever they shall find the bond or
541 security held by the corporation against any stockholder to be
542 doubtful or insufficient. And the corporation may enforce
543 payment of the bonds and securities so subsequently taken, in
544 like manner as the former bonds and securities.

545 54. If any stockholder fail to give bond or security, or to
546 renew the same, when thereto required as aforesaid, the whole
547 residue remaining unpaid on his stock, with interest thereon at
548 the rate of ten per cent per annum until paid, and costs, may
549 be recovered by the corporation, by warrant, action or motion,
550 or by sale and transfer of the stock in the manner prescribed
551 in the forty-ninth, fiftieth and fifty-first sections of this act.

552 55. The shares of every corporation subject to this act shall
553 be deemed personal estate, and as such shall pass to the per-
554 sonal representative or assignee of the stockholder, and be
555 subject to execution.

556 56. The person in whose name shares may stand on the
557 books of a corporation shall be deemed the owner thereof so
558 far as the corporation is concerned.

559 57. No shares shall be assigned without the consent of the
560 board of directors, until the same be fully paid up, or security be
561 given to the satisfaction of the board for the residue remaining
562 unpaid. And where bond and security has been given for the
563 unpaid residue of the stock, no assignment shall effect the va-
564 lidity of such bond and security, or the right of the corpora-
565 tion to resort thereto for enforcing payment of the said unpaid

566 residue, until the assignee shall have given bond and security,
567 and the same shall be accepted as satisfactory by the board.

568 58. A transfer book shall be kept by the corporation in
569 which its shares may be assigned; and they shall be assignable
570 only on the said book, under such regulations, if there be any.
571 as may have been prescribed by the by-laws of the corporation;

572 59. The corporation shall provide, by its by-laws, for issuing,
573 if demanded, to every person appearing on its books as owner
574 of any shares of stock fully paid up, a certificate therefor under
575 the corporate seal, to be signed by the President, and such
576 officer, if any, as the by-laws may direct.

577 60. The person to whom any such certificate has been issued,
578 may, upon returning the same to the corporation, assign, either
579 in person or by attorney, upon the transfer book, the whole
580 number of shares mentioned in the said certificate, or any less
581 number. The certificate returned shall be cancelled and re-
582 tained by the corporation, which shall thereupon, if demanded,
583 cause a new certificate or certificates to be issued to the proper
584 persons.

585 61. If any person shall, for valuable consideration, sell,
586 pledge, or otherwise dispose of, any shares belonging to him, to
587 another, and deliver to him the certificate for such shares,
588 with a power of attorney authorizing the transfer of the same
589 on the books of the corporation, the title of the former, both at
590 law and in equity, shall vest in the latter, so far as may be ne-
591 cessary to effect the sale, pledge, or other disposal of the said

592 shares, not only as between the parties themselves, but also as
593 against the creditors of, and subsequent purchasers from, the
594 former; but subject nevertheless to the provision contained in
595 the fifty-sixth section of this act.

596 62. When a person to whom a certificate has been issued,
597 alleges it to have been lost, he shall file in the office of the cor-
598 poration, 1st. An affidavit setting forth the time, place and
599 circumstances of the loss, to the best of his knowledge and be-
600 lief; 2d. Proof of his having advertised the same in a newspa-
601 per of general circulation published near the principal office of
602 the corporation, once a week for four weeks; and 3d. A bond
603 to the corporation, with one or more sufficient securities, con-
604 ditional to indemnify the corporation and all persons against
605 any loss in consequence of a new certificate being issued in lieu
606 of the former. And thereupon the board of directors shall
607 cause to be issued to him a new certificate, or a duplicate of
608 the certificate alleged to be lost.

609 63. Every corporation subject to this act shall publish in a
610 newspaper of general circulation printed near its principal of-
611 fice or place of business, an annual exhibit showing a full, fair
612 and detailed statement of the condition of such corporation;
613 which statement shall be verified by the oath of the president,
614 secretary, or principal book-keeper.

615 64. Every such corporation shall exhibit its books, papers
616 and property to such agents or committees as the Legislature
617 may, from time to time, appoint to examine the same; and

618 when required by the Legislature shall report thereto a full,
619 fair and detailed exhibit of its property, liabilities and cond:-
620 tion, verified as prescribed by the last section.

621 65. No corporation subject to this act shall interpose the de-
622 fence of usury to any warrant, action, motion, proceeding or
623 suit, at law or in chancery. Nor shall any bond, note, debt or
624 contract of such corporation be impaired or adjudged invalid
625 by reason of any thing in the laws prohibiting usury./

626 66. When any such incorporation shall expire or be dissolv-
627 ed, or its corporate rights shall cease, its property and assets
628 shall, under the order and direction of the board of directors
629 then in office, or of such receiver as may be appointed for the
630 purpose by the circuit court for the county in which the prin-
631 cipal office or place of business of the corporation is situated,
632 or in which its property or some part thereof may lie, be sub-
633 ject to the payment of the debts and liabilities due by it, and
634 the surplus to distribution among the stockholders according
635 to their respective interests. And such corporation may sue
636 and be sued as before, and do all lawful acts, for the purpose of
637 collecting its debts, converting its property or assets into money,
638 prosecuting its rights, enforcing its liabilities, and distributing
639 its property and assets, or the proceeds thereof, among those
640 entitled thereto.

641 67. It shall be sufficient service of any warrant, process or
642 notice on a corporation subject to this act, if a copy thereof be
643 delivered by a proper officer or person to the President of the

644 corporation; or, in his absence, be delivered to any officer, di-
645 rector or agent of the corporation at its principal office or
646 place of business; or if service cannot be made as aforesaid,
647 the corporation may be proceeded against by order of publi-
648 cation.

649 68. The right is reserved to the Legislature to alter or
650 amend, by general laws at its pleasure, this act or any certifi-
651 cate of incorporation issued under the same. But such altera-
652 tion or amendment shall not affect or impair the right of the
653 creditors of the corporation to have the property and assets
654 thereof applied in discharge of their respective claims, or of
655 the stockholders to have the surplus which may remain after
656 providing for the debts and liabilities of the corporation, dis-
657 tributed among themselves according to their respective in-
658 terests.

659 69. This act shall be in force from its passage.

HOUSE BILL No. 63.

**A BILL TO PRESCRIBE WHEN ACTS OF THE
LEGISLATURE SHALL TAKE EFFECT.**

Be it enacted by the Legislature of West Virginia:

1 1. Every act of the Legislature hereafter
2 passed shall take effect and be in force from its
3 passage, unless it be otherwise expressly pro-
4 vided in the act itself, or be manifestly incon-
5 sistent with the intention of the Legislature;
6 and the day when any act is passed shall be
7 noted in the enrollment, and printed copies
8 thereof, next after its title.

9 2. The third section of chapter sixteen of the
10 Code of Virginia, second edition, is hereby re-
11 pealed.

12 3. This act shall be in force from its passage.

HOUSE BILL No. 64.

A BILL DECLARING HOW CERTAIN PROVISIONS OF THE CODE OF VIRGINIA SHALL BE CONSTRUED.

Be it enacted by the Legislature of West Virginia:

1 1. Any provision of the Code of Virginia direct-
2 ing or authorizing an act to be done, or pro-
3 ceeding to take place on the first or any subse-
4 quent day of the term of a county court, shall,
5 be construed as if the time thereby appointed
6 for such act or proceeding was the second Mon-
7 day of the month ; but this shall not be deem-
8 ed to apply to orders of publication.

9 2. This act shall be in force from its passage.

HOUSE BILL No. 65.

**A BILL FOR THE RELIEF OF S. S. LOCKNEY,
COMMISSIONER OF THE REVENUE, FOR
BARBOUR COUNTY, IN THE YEAR 1861.**

Be it enacted by the Legislature of West Virginia:

1 1. There is hereby appropriated the sum of
2 fifty dollars, for the benefit of S. S Lockney,
3 of Barbour County, for services as Commis-
4 sioner of the Revenue for said County, in the
5 year 1861.

6 2. This act shall be in force from its passage.

HOUSE BILL No. 67.

A BILL TO PRESCRIBE HOW LICENSES TO PRACTICE THE LAW MAY BE OBTAINED.

Be it enacted by the Legislature of West Virginia :

1 1. Any three judges of this State may grant a li-
2 cense in writing to practice law in the courts thereof, to
3 any person, who shall, on examination, appear to them
4 to be duly qualified, and who shall produce to them a
5 certificate signed by a majority of the supervisors of
6 the county where he has resided for one year next pre-
7 ceding the date of the certificate, or if there be no such
8 supervisors at the time, then by the recorder, that
9 he is a person of honest demeanor and is over twenty-
10 one years of age.

11 2. The first section of chapter one hundred and
12 sixty-four of the Code of Virginia, second edition, is
13 hereby repealed.

14 3. This act shall be in force from its passage.

HOUSE BILL No. 68.

A BILL TO AUTHORIZE THE CLERK OF THE CIRCUIT COURT TO ISSUE EXECUTIONS ON JUDGMENTS OF JUSTICES IN CERTAIN CASES.

Be it enacted by the Legislature of West Virginia;

1 1. Every execution issued by a justice which according to
2 the ninth section of chapter one hundred and fifty of the Code
3 of Virginia, second edition, should be returned by the consta-
4 ble to the clerk's office of the court by which he was appoint-
5 ed, shall be returned by the constable to the clerk's office of the
6 circuit court of the county.

7 2. The clerk of the circuit court shall docket all executions
8 hereafter returned by a constable as aforesaid, and index the
9 same in the name of both plaintiff and defendant, and file
10 them alphabetically in a separate bundle for each year; for
11 which service the clerk shall be entitled to a fee to be paid
12 by the plaintiff in each case of twenty cents. Such further
13 executions may be issued for the recovery of the amount due
14 on any executions so returned as if the judgment had been ren-
15 dered in the circuit court. The same may, at the option of
16 the plaintiff, be directed to and executed by a constable or
17 sheriff; and the same proceedings shall be had upon execu-
18 tions issued upon judgments of the circuit courts.

19 3. And where executions issued by a justice have been
20 heretofore returned to the clerk's office of a county court, the

21 clerk of the circuit court may issue further executions thereon,
22 to be directed and executed, and have the same effect, as the
23 executions to be issued by him under the provisions of the pre-
24 ceding section.

25 4. Where a judgment has been or shall be rendered by a
26 justice and returned pursuant to law to the clerk's office of a
27 county court or a circuit court, the clerk of the circuit court
28 may issue executions thereon.

29 4. Nothing herein contained shall be construed to authorize
30 any execution to be issued in contravention of the act of the
31 General Assembly of Virginia, passed January thirtieth, eigh-
32 teen hundred and sixty-three, entitled "An act staying the
33 collection of certain debts."

34 6. This act shall be in force from its passage.

HOUSE BILL No. 69.

**A BILL FOR THE RELIEF OF WILLIAM NIXON,
COLLECTOR OF THE REVENUE OF
WAYNE COUNTY.**

Be it enacted by the Legislature of West Virginia :

1 1. The Auditor is hereby instructed to credit Wil-
2 liam Nixon, Collector of the Revenue for Wayne
3 county, with eight hundred and forty-five dollars, in the
4 settlement of the said Nixon, for the revenue of said
5 county for the year 1862, the said sum having been
6 taken from said William Nixon by force, by some reb-
7 els, in September, 1862.

8 2. This act shall be in force from its passage.

HOUSE BILL No. 70.

A BILL TO PROVIDE FOR REBUILDING THE BRIDGES OVER WORTHINGTON CREEK AND DRY RUN ON THE LINE OF THE STAUNTON AND PARKERSBURG TURNPIKE.

Be it enacted by the Legislature of West Virginia :

1 1. George K. Leonard, James M. Stephenson, and
2 John Hall, are hereby appointed commissioners to con-
3 tract for, and superintend, the rebuilding of the bridges
4 over Worthington Creek and Dry Run, on the line of
5 the Staunton and Parkersburg Turnpike, and repairing
6 the approaches to the same.

7 2. The sum of two thousand eight hundred dollars
8 is hereby appropriated for the purposes of this act, to
9 be drawn from the treasury, from time to time, as the
10 work on the said bridges progresses, on the orders of
11 the said commissioners, or any two of them.

12 3. This act shall be in force from its passage.

HOUSE BILL No. 71.

A BILL MAKING AN APPROPRIATION FOR THE PAYMENT OF CAPT. EVAN C. HARPER'S COM- PANY OF HOME GUARDS.

Be it enacted by the Legislature of West Virginia :

1 1. That a sum not exceeding one thousand dollars
2 is hereby appropriated, out of any money in the
3 Treasury not otherwise appropriated, for the purpose
4 of paying Capt. Evan C. Harper's company of Home
5 Guards, of the county of Pendleton, for services ren-
6 dered to the State.

7 2. When satisfactory evidence of the service of said
8 company is produced to the Governor, he is hereby au-
9 thorized to draw his warrant on the Auditor for a sum
10 not exceeding one thousand dollars to pay for said ser-
11 vice, and the Auditor is hereby required to pay the
12 same out of any money in the Treasury not otherwise
13 appropriated.

14 3. This act shall be in force from its passage.

HOUSE BILL No. 74.

**A BILL FOR THE RELIEF OF THORNTON
NUTTER.**

1 Whereas, it is represented to the General Assembly,
2 that at the spring term, 1862, of the circuit court for
3 Marion county, two bills of indictment was found
4 against Thornton Nutter, a citizen of said county, for
5 unlawfully selling ardent spirits, and at the fall term,
6 1862, judgment was entered by said court in both cases
7 for sixty dollars fine in each of the said cases, on which
8 fines the said Nutter has paid the sum of sixty-five
9 dollars and fifty cents, therefore,

Be it enacted by the Legislature of West Virginia :

10 1. That the said Thornton Nutter be, and he is here-
11 by discharged and released from the payment of any
12 more of the said judgments or costs.

13 2. This act shall be in force from its passage.

HOUSE BILL No. 75.

**A BILL TO AUTHORIZE THE KANAWHA
BOARD TO BORROW MONEY.**

Be it enacted by the Legislature of West Virginia:

1 1. The Kanawha Board is hereby authorised
2 to borrow any sum not exceeding fifty thousand
3 dollars, for the more speedy completion of the
4 improvements on the Kanawha River; and
5 they are empowered to pledge the tolls and
6 property under their control for the payment of
7 interest on the said loan, and the repayment of
8 the principal. The rate of interest to be paid
9 by them shall not exceed seven per centum per
10 annum. Nothing in this act contained shall
11 be construed to bind the State for any liabili-
12 ties incurred by the said Board in pursuance
13 of this act.

14 2. This act shall be in force from its passage.

HOUSE BILL No. 77.

A BILL TO PROVIDE FOR THE ELECTION OF ASSESSORS,

Be it enacted by the Legislature of West Virginia :

1 1. There shall be elected on the fourth Thursday of
2 October next, and every second year thereafter, in each
3 of the several counties of this State, by the qualified
4 voters thereof, in the manner prescribed by law, assess-
5 sors for said counties : That is to say, each of the fol-
6 lowing named counties shall elect two assessors, viz :
7 Barbour, Greenbrier, Hampshire, Hardy, Harrison,
8 Kanawha, Lewis, Marshall, Marion, Mason, Mononga-
9 lia, Monroe, Ohio, Preston, Randolph, and Wayne, and
10 each of the counties of the State not named above
11 shall elect one.

12 2. The assessors so elected, shall give bond and
13 qualify as prescribed by law, and shall hold their offi-
14 ces for two years, commencing with the first day of
15 January next, succeeding the date of their election.

16 3. This act shall be in force from its passage.

HOUSE BILL No. 78.

**A BILL AUTHORIZING THE PUBLICATION OF
THE LAWS IN THE LOYAL NEWSPAPERS OF
THE STATE.**

Be it enacted by the Legislature of West Virginia :

1 1. All laws of a public nature now passed, or which
2 may be passed at the present session of the Legislature,
3 shall be published once in all the loyal Union newspa-
4 pers within the State.

5 2. The said newspapers, except the Intelligencer,
6 published in the City of Wheeling, shall be paid for
7 said publication the sum of 75 cents per thousand ems,
8 and said Intelligencer shall be paid the sum of \$1 for
9 the same once in the daily and once in the weekly edi-
10 tions, respectively, and for furnishing copies to each of
11 the other said loyal newspapers.

12 3. This act shall be in force from its passage.

HOUSE BILL No. 80.

A BILL TO DISPENSE WITH THE INDEXES TO THE JOURNALS OF THE SENATE AND HOUSE OF DELEGATES, AND WITH THE SKETCH OF THE ACTS AND RESOLUTIONS, HERETOFORE REQUIRED BY LAW.

Be it enacted by the Legislature of West Virginia:

1 1. So much of any laws heretofore in force, as re-
2 quires the Clerk of the Senate to prepare an index to
3 the Journal of the Senate, and the Clerk of the House
4 of Delegates to prepare an index to the Journal of the
5 House, and at the expiration of each session a sketch
6 or synopsis of the several acts and joint resolutions
7 passed during the session, is hereby repealed.

8 2. This act shall be in force from its passage.

HOUSE BILL No. 81.

A BILL TO REGULATE THE REMISSION OF FINES AND PENALTIES BY THE EXECUTIVE.

Be it enacted by the Legislature of West Virginia:

1 1. Where any fine or penalty has heretofore been
2 imposed under the laws of Virginia or of this State, or
3 shall hereafter be imposed under the laws of this State,
4 if the same or any portion thereof would, when col-
5 lected, be payable into the treasury and has not been
6 so paid, the Governor may, on good cause shewn by af-
7 fidavit, or upon the recommendation of the judge and
8 a majority of the jury who tried the case, remit so
9 much thereof as may be payable into the treasury, or
10 a less amount, unconditionally, or upon such terms and
11 conditions, as may seem to him right and equitable.
12 But of every order issued by him under this act, due
14 record shall be made by the Secretary of the State, on
15 the Journal of Executive proceedings, and reported to
16 the Legislature.

17 2. This act shall be in force from its passage.

HOUSE BILL No. 82.

A BILL FOR THE RELIEF OF ALFRED A. HAGAR AND OTHERS.

Be it enacted by the Legislature of West Virginia:

1 1. The sum of one hundred and nineteen dollars is
2 hereby appropriated out of any money in the treasury
3 not otherwise appropriated, to pay the claims of Alfred
4 A. Hagar, Adjutant, Milton J. Jeffry, Ulyssus H. Ha-
5 gar, William P. Lovejoy, Evermount P. Bias, John
6 Medders, and Robert Hagar, allowed by the regimen-
7 tal court, held in Boone county, at the house of Thos.
8 Copley, March 10, 1863, for the 187th regiment Vir-
9 ginia militia.

10 2. The additional sum of seventeen dollars is hereby
11 appropriated, out of any money in the treasury not
12 otherwise appropriated, to pay Alfred A. Hagar, for
13 time spent in traveling and in organizing the State
14 troops at Brownstown June 2d, 1863.

HOUSE BILL No. 83.

A BILL CONCERNING LICENSES.

Be it enacted by the Legislature of West Virginia:

1 1. No person shall keep a hotel, tavern, or other place of pub-
2 lic resort of that nature without license. No person shall keep
3 a bowling saloon or alley, billiard table, or such like tables for
4 public use without license. No person shall sell at retail to be
5 drank at the place where sold or otherwise, spiritous liquors,
6 wines, porter, ale, or beer, without license. No person or com-
7 pany shall exhibit a theatrical performance in a theatre or any
8 menagerie, circus, or other show of a public nature, for money
9 in a house or elsewhere without license. Nor shall any person,
10 without license, sell refreshments in a public theatre, or let any
11 room or rooms for public shows or other exhibitions or performances
12 without license. No non-resident dentist shall practice his pro-
13 fession in the State without license. No non-resident daguer-
14 rean, photographer, or artist of that description shall practice
15 his art or calling in this State without license. No person shall,
16 without license, act as a hawker, or pedler, in selling goods,
17 wares, and merchandise, or other articles. The license shall be
18 a personal privilege.

19 2. A sale made at any place other than that designated
20 in the license, shall, unless specially authorized by law, in all
21 cases be held to be a sale without license.

22 3. This act shall not be construed to require a person to take
 23 license as a keeper of a boarding house, who shall have not more
 24 than----persons boarding with him at any one time, or who
 25 shall board laborers exclusively, or students in any school or
 26 seminary of learning.

27 4. Any person who shall, in any way, keep a hotel, tavern, or
 28 other place of public resort of that nature, without license to
 29 do so, shall pay a fine of not less than ----- nor more than -----
 30 dollars. And any person who shall keep a house of private en-
 31 tertainment without license, and any person who shall, in any
 32 way, keep a boarding house, cook shop, eating house, or any
 33 house not private, but kept as a place of public resort for any pur-
 34 pose, bowling saloon or alley, billiard table, or other such table,
 35 shall pay a fine not exceeding one hundred dollars, unless it be
 36 such boarding house or other place of resort as may be exempt-
 37 ed by the third section of this act.

38 5. Any person who shall sell at retail, spirituous liquors, wine,
 39 porter, ale, beer, or other drinks of that nature, without license,
 40 where such license is required by this act, shall pay a fine of not
 41 less than ten nor more than two hundred dollars.

42 6. Any non-resident dentist, daguerrean, or such like artist,
 43 who shall practice his profession or calling in this State without
 44 license, shall pay a fine of not less than ----- nor more than
 45 ----- dollars.

46 7. Any person who shall exhibit any theatrical performance
 47 in a public theatre, or any menagerie, circus or other public show,

48 exhibition or like performance in a theatre or elsewhere, without
49 a license therefor, where such license is required by law, shall pay
50 a fine of not less than twenty nor more than five hundred dollars.

51 8. Any person who shall sell refreshments in a public theatre.
52 without a license therefor, shall pay a fine of not less than ten
53 nor more than one hundred dollars.

54 9. Any person who shall let a room or rooms for public shows
55 or other exhibitions or performances, without a license therefor,
56 where a license is required for such show or exhibition, shall pay
57 a fine of not less than twenty nor more than one hundred dol-
58 lars.

59 10. Any person who shall act as hawker or pedler without
60 license, shall pay a fine of not less than twenty nor more than
61 one hundred dollars.

62 11. Every assessor shall annually ascertain all persons in his
63 district who are engaged in any business calling or profession,
64 prohibited without license by law, and who ought to obtain such
65 licenses; and it shall be the duty of all persons so engaged or
66 desiring to engage in such business, calling or profession, to ap-
67 ply to the assessor of the district, and it shall be the duty of the
68 assessor, in either case, to deliver to every such person a certifi-
69 cate of the license to be obtained and the amount of tax to be
70 paid by him. The assessor shall commence his assessments of
71 such licenses as expire on the 30th day of April, at such time
72 during said month as will enable him to complete the assess-
73 ment, and deliver to the sheriff or collector a list thereof, on or

74 before the 30th day of April. Every certificate to sell shall
75 designate the store or place of sale. Such certificate shall be
76 produced to the officer to whom the tax is to be paid, and his
77 receipt therefor written on the certificate, shall be deemed a
78 sufficient license to the person to whom the same has been is-
79 sued, except such person shall not, by such license, be au-
80 thorized to sell, by retail, wine, ardent spirits, or a mixture
81 thereof, or to keep a hotel, tavern, or house of private enter-
82 tainment, or bowling saloon; in which cases such person shall ob-
83 tain a license in the manner prescribed by law.

84 12. Licenses granted to keepers of billiard tables or bowling
85 alleys, may commence at any time in the year, and may termi-
86 nate at the end of four months from the time of granting the
87 same, or may be for a period of a year. If granted for a period
88 of four months, the tax shall be fifty per centum of the annu-
89 al tax.

90 13. All licenses, (except licenses for public theatres and shows
91 and other exhibitions, which shall be for the time hereinafter speci-
92 fied,) shall expire on the 30th day of April. In all cases where-
93 in it is necessary for the board of supervisors to do any act to
94 authorize the license, such act may be performed in anticipa-
95 tion at the March or April meeting of such board, next prece-
96 ding the first day of May, on which such license is to take effect.
97 Where such license is not for the full period of one year, such
98 board may at any time perform such acts. If any license pro-
99 vided for in this section, be granted for a less term than one

100 year, the tax thereon shall bear such proportion to the whole
201 annual tax as the space of time between granting the same and
202 the 30th day of April bears to the whole year. A person ob-
103 taining any such license may transfer the unexpired term there-
104 of by leave of the board of supervisors of the county where
105 such license was obtained, on a certificate of all such things as
106 would be required if it were an application to grant a license;
107 and in other cases by procuring from the assessor a certificate
108 on such license, showing to whom it was transferred. Any
109 person commencing any trade or business, for which a license
110 is required, before making application for, and obtaining such
111 license from the assessor, shall be assessed with four times the
112 amount of tax otherwise imposed on such license.

113 14. Where an assessor desires to obtain a license, which, in the
114 case of another person applying therefor, would be granted by
115 himself, the tax may be paid without such certificate; but the
116 receipt for the tax shall be produced to, and the license
117 shall be granted by the board of supervisors of the
118 county.

119 15. If the person desiring a license be dissatisfied with the
120 valuation of the assessor, he may appeal to the board of super-
121 visors of the county, whose judgment shall be final.

122 16. The tax on every license issued under this act, shall, un-
123 less otherwise provided, be paid to the officer of the county,
124 wherein the license issued, who, at the time of payment, may

125 be authorized to collect the taxes assessed for that year, in such
126 county, under the 35th chapter of the Code of Virginia.

127 17. The tax on a license to keep a hotel or tavern shall be
128 determined by the yearly value of such hotel or tavern, if it
129 be actually rented or leased, and the assessor may require the
130 proprietor or tenant to declare on oath what is the amount of
131 such rent. If either of them refuse to state the same when so
132 required, he shall forfeit three hundred dollars.

133 18. If the premises are in the occupation of the proprietor
134 himself, the assessor, after making a comparison of the same
135 (where that is in his power,) with other like premises actually
136 rented, shall estimate the yearly value to the best of his judg-
137 ment. In doing this, he shall take into consideration not only
138 the house itself but all the out houses, gardens, stables, lots,
139 baths, pools and watering places appurtenant thereto, with all
140 other things that impart value to the same, including furniture
141 and excluding the contiguous farm or farm houses.

142 19. If a merchant shall desire a license to sell by retail,
143 wine, ardent spirits, or a mixture thereof, he shall pay the *ad-*
144 *dittonal tax prescribed* for this privilege, and obtain from the
145 board of supervisors of the county in which his store or place
146 of sale is situated, a certificate that he is a person of good
147 character, and that the board sees no objection to such a per-
148 mission being granted. If such certificate be applied for and
149 refused, the refusal shall be entered of record; and afterwards

150 such certificate shall not be granted to the applicant before the
151 next term in March or April.

152 20. Such certificate shall be produced with the receipt for the
153 tax, to the assessor, who shall grant to the merchant such li-
154 cense as he may be entitled to. The license shall in addition
155 to what is prescribed by the preceding section, state the fact
156 of such certificate, and the situation of the store or place of
157 sale. If the person applying for such license, asks that it shall
158 be to him as a commission merchant, the assessor shall so as-
159 sess on its face.

160 21. When a person who has obtained or paid a tax for a li-
161 cense to sell at one store or place, removes to another store or
162 place and wishes his license altered accordingly, the board of
163 supervisors of the county may authorize the assessor to make
164 such alteration.

165 22. If any person shall; without paying such tax and obtain-
166 ing such certificate, as is required by this act, sell by retail,
167 wine, ardent spirits, or a mixture thereof, ale, porter, beer, or
168 such like drinks, he shall forfeit sixty dollars; and if any per-
169 son sell by retail, wine, ardent spirits, or a mixture thereof, ale,
170 porter, or beer, or such like drinks, to be drunk in or at the
171 store or other place of sale, he shall, unless he be licensed to
172 keep a hotel or tavern at such place, forfeit sixty dollars.
173 When a license is granted to keep a hotel or tavern, the person
174 shall have the privilege of selling by retail.

175 23. Upon the motion of any inhabitant of the county, after

176 ten day's notice, to any merchant who has obtained such cer-
177 tificate, the board which granted it, if it see cause to do so,
178 may revoke the same. And if, after such revocation, such mer-
179 chant shall sell by retail, wine, ardent spirits, or any mixture
180 thereof, ale, porter, beer, or drinks of like kind, he shall, for
181 every offence, forfeit fifty dollars.

182 24. There shall be a tax per week on theatrical performan-
183 ces in a public theatre; a tax per year on each place of sale of
184 refreshments in a public theatre, during such performances; a
185 tax per year on the proprietor or occupier of any public room
186 fitted for public exhibitions, who permits the same to be used
187 for such purposes; a tax on any public show, exhibition, or per-
188 formance elsewhere, for each time of performance.

189 25. After the assessor shall have assessed all persons required
190 by law to obtain licenses, he shall make a fair classified list
191 thereof, as far as he may have progressed with the same, at in-
192 tervals not exceeding fifteen days, and deliver such lists to the
193 sheriff or other collector of the revenue, for his guide in collect-
194 ing the taxes imposed by law on such licenses. He shall return
195 to the auditor, and to the clerk of the board of supervisors of the
196 county, a list of all such licenses; that is to say, a list of such as
197 are granted on or after the first day of September, and before
198 the first day of May following, shall be returned on or before the
199 tenth day of the said month of May; and a list of such as are
200 granted on or after the first day of May, and before the first
201 day of September following, shall be returned immediately after

202 the first day of September. Such lists shall specify the date of
 203 each license, for what it was granted, the name of the person to
 204 whom granted, the amount of tax, to whom paid, and the date
 205 upon which the tax was assessed. For every certificate deliver-
 206 ed by an assessor to a person desiring, or who ought to obtain a
 207 license, the assessor shall be entitled to a fee of fifty cents for
 208 each license, unless such license be refused by the board; which
 209 fees shall be paid to him out of the treasury, on the warrant of
 210 the auditor; and the same shall be included and added to the
 211 amount of tax assessed upon such license, and be collected and
 212 paid into the treasury in the same manner and at the same
 213 time such taxes are payable. He shall receive a fee of fifty
 214 cents for a transfer of license, to be paid by the person obtain-
 215 ing such transfer.

216 26. If any assessor fail to return any such list of licenses at
 217 the time and in the manner before directed, without a reason-
 218 able excuse therefor, no warrant shall be issued by the auditor
 219 in his favor until such list is returned, and he shall moreover
 220 pay a fine of one hundred dollars. If no licenses have been
 221 issued or obtained, he shall return the fact at the times requir-
 222 ed for a return of a list of licenses, and for his failure so to do,
 223 he shall incur the same penalties as are imposed for his failure
 224 to return a list of licenses granted.

225 27. Any such list signed by the assessor, wherein shall be
 226 stated the amount of tax paid for any license, and to whom
 227 paid, shall in any motion or proceeding against any delinquent
 228 sheriff or collector, be evidence to charge him therewith.

229 28. The sheriff or other collector shall be authorized and re-
 230 quired to distrain immediately for the amount with which any

231 person may have been assessed by the assessor upon any license
232 under the provisions of this act, and to sell upon ten days' no-
233 tice so much of such person's property subject to distress as may
234 be necessary to pay the taxes so assessed.

235 29. No sheriff or collector shall receive from any person a
236 license tax unless he has first received the certificate of the as-
237 sessor, showing the amount with which such person has been
238 assessed, or the list required to be furnished to such sheriff or
239 collector by the assessor.

240 30. Every sheriff or collector shall account for and pay into
241 the treasury the taxes assessed on licenses at the following
242 times: The taxes assessed on or after the first day of Septem-
243 ber, and before the first day of May following, shall be accoun-
244 ted for and paid on or before the thirtieth day of the said
245 month of May; and the taxes assessed on or after the first day
246 of May, and before the first day of September following, shall
247 be accounted for and paid at the same time that other taxes
248 collected by such sheriff or collector are required by law to be
249 accounted for and paid.

250 31. If the taxes required to be paid on or before the thirtieth
251 day of May, be not then paid, the auditor shall, within three
252 months after such failure, file in the clerk's office of the circuit
253 court of the county in which the seat of government is located,
254 with the clerk thereof, an accurate account of the amount with
255 which such sheriff or collector may be chargeable on account of
256 such taxes, and thereupon the clerk shall enter up a judgment
257 against such sheriff or collector and his securities for the
258 amount wherewith he is so chargeable, with lawful interest from
259 the time of such failure until payment thereof, and fifteen per

260 centum damages in addition thereto, which judgment shall have
261 the same validity and be subject in all respects to the like pro-
262 ceedings thereupon as if it had been rendered by the court.

263 32. But any person aggrieved by such judgment may apply to
264 the circuit court of the county in which the seat of government
265 is located, within six months thereafter, to set aside said judg-
266 ment and try said cause, which such court may do upon such
267 terms as it may prescribe. Such judgment, if entered against
268 any obligor of the bond of the sheriff or collector who is dead
269 at the time of the entry of such judgment, shall not be impair-
270 ed thereby; and as to the party who may have died, it shall
271 operate to all intents and purposes as a judgment against
272 the personal representative of such deceased party.

273 33. When a sheriff or other collector is unable to find prop-
274 erty, out of which to make the taxes imposed upon persons who
275 may have been assessed with a license, such sheriff or collector
276 may return such persons as insolvents, subject to all the laws
277 in relation to uncollected taxes.

278 34. Every sheriff or collector receiving taxes on licenses un-
279 der this chapter, shall be allowed a commission of two per centum
280 for their collections on the first five thousand dollars, and one
281 per centum on any excess over that sum; and if he shall punc-
282 tually pay the same into the treasury within the time prescribed
283 by law, he shall be allowed an additional compensation of —
284 per centum.

285 35. The penalties prescribed by this act, except those recov-
286 erable in the circuit court of the county in which the seat of
287 government is located, by existing laws, shall be recoverable
288 by action of debt, presentment, indictment, or information.

289 36. Such action of debt may be brought in the name of the
290 State, either in the county wherein the offence was committed,
291 or wherein the offender resides.

292 27. In the action of debt, bail shall be required as a matter
293 of right, and the defendant arrested under a capias hereby au-
294 thorized, may, at any time pending the case, give bond with
295 sufficient security to the officer making the arrest, who may
296 thereupon discharge him. Such bond shall be conditioned for
297 the appearance of the party to answer the action and to abide
298 by and satisfy the judgment of the court; and shall be returned
299 by such officer to the clerk of the court from which the capias
300 issued to be filed and preserved by the clerk of such court. If
301 deemed necessary, an attachment may also be issued as now au-
302 thorized in other cases, except that an affidavit and a bond shall
303 not be required of the State or her agents in the proceedings
304 hereby authorized.

305 38. In addition to the general duties required of the prosecuting
306 attorney in each county, he shall, upon his own motion, or upon
307 the application of any revenue officer, or of any conservator of
308 the peace, institute prosecutions or actions upon all the offences
309 herein provided.

310 39. It shall be the duty of the assessors and board of super-
311 visors, to whom application shall be made for licenses, to re-
312 quire, from each and every person who shall apply for license,
313 on oath to support the Constitution of this State and of the
313 United States.

HOUSE BILL No. 84.

**A BILL DECLARING THE SOUTH FORK OF FISH-
ING CREEK, IN THE COUNTY OF WETZEL, A
PUBLIC HIGHWAY.**

Be it enacted by the Legislature of West Virginia:

1 1. That the south fork of Fishing Creek, in
2 the county of Wetzel, from Hay's Mills up to
3 Aiden Ice's Mills, be and the same is hereby de-
4 clared a public highway for the transportation
5 of boats, lumber, &c.

HOUSE BILL No. 85.

**A BILL TO PROVIDE FOR THE RE-BUILDING THE
BRIDGE OVER THE BUCKHANNON RIVER ON THE
LINE OF THE STAUNTON AND PARKERSBURG
TURNPIKE.**

Be it enacted by the Legislature of West Virginia :

- 1 1. Jacob B. Reger, David S. Hazzleton, and John L.
2 Smith, are hereby appointed commissioners to contract
3 for and superintend the re-building of the bridge over
4 the Buckhannon River, on the line of the Staunton
5 and Parkersburg turnpike.
- 6 2. The sum of three thousand five hundred dollars
7 is hereby appropriated for the purpose of this act, to
8 be drawn from the treasury from time to time, as the
9 work on the said bridge progresses, on the orders of the
10 said commissioners, or any two of them.

HOUSE BILL No. 86.

**A BILL MAKING AN APPROPRIATION TO RE-
BUILD A BRIDGE OVER LICK RUN, ON THE
REEDY AND RAVENSWOOD TURNPIKE IN
JACKSON COUNTY.**

Be it enacted by the Legislature of West Virginia:

- 1 1. The sum of fifty dollars is hereby appro-
2 priated out of any money in the treasury not
3 otherwise appropriated, for the purpose of re-
4 building a bridge across Lick Run, on the Reedy
5 and Ravenswood turnpike, in Jackson county.
- 6 2. C. M. Rice and Michael Kouns are hereby
7 appointed commissioners to let to contract and
8 superintend the rebuilding of said bridge; and
9 upon their certificate that the contractor there-
10 of has completed the same, the Auditor is di-
11 rected to issue his warrant on the treasury for
12 the said sum, payable to their order.

HOUSE BILL No. 87.

**A BILL TO AUTHORIZE THE SUSPENSION OF
SPECIE PAYMENTS TILL JANUARY FIRST,
EIGHTEEN HUNDRED AND SIXTY-FIVE.**

Be it enacted by the Legislature of West Virginia:..

1 1. So much of any law as may subject any bank of
2 circulation now in operation in this State to the forfei-
3 ture of its charter, or to any other penalty, for failing
4 or refusing to redeem its notes or debts in specie, shall
5 be and the same is hereby suspended until the first day
6 of January, eighteen hundred and sixty-five.

7 2. The twenty-seventh, twenty-eighth, twenty-ninth,
8 thirtieth, thirty-first and thirty-second sections of chap-
9 ter fifty-eight of the Code of Virginia, second edition,
10 and the several statutory provisions incorporated there-
11 in, are hereby repealed.

HOUSE BILL No. 88.

**A BILL TO REGULATE THE MANNER IN WHICH
MINISTERS OF THE GOSPEL MAY BE AUTHORIZED
TO CELEBRATE THE RITES OF MATRIMONY.**

Be it enacted by the Legislature of West Virginia:

1 1. When a minister of the gospel shall, before the
2 Recorder of a county, produce proof of his ordination,
3 add of his being in regular communion with the relig-
4 ious society to which he belongs, and give bond in the
5 penalty of fifteen hundred dollars, to be approved by
6 the Recorder, and make oath that he will support the
7 Constitution of the United States and the Constitution
8 of this State, the Recorder may make an order author-
9 izing such minister to celebrate the rites of matrimony.

HOUSE BILL No. 89.

A BILL TO INCORPORATE THE SANDY VALLEY COAL RAILWAY COMPANY.

Be it enacted by the Legislature of West Virginia :

1 1. It shall be lawful to open books at Catlettsburg, Cincinnati,
2 Wheeling, Pittsburg, and at such other places as they may desig-
3 nate, by Chas. W. Ricketson, Chas. Knapp, Laven T. Moore,
4 Wm. Ratcliff, R. B. Bower, Larz Anderson, Geo. Shoenberger,
5 John McVay, Wm. Bagaley, M. O. Leslie, Wm. K. Pendleton
6 and their associates, or any three of them at any one place, for
7 the purpose of receiving subscriptions to the amount of fifteen
8 thousand shares of one hundred dollars each, to constitute a joint
9 capital, for the purpose of constructing a rail way from some
10 point at or near the mouth of Sandy River, in Wayne county,
11 to a point opposite the mouth of Pond Creek, on the Tug Fork
12 thereof in Logan county, to be called the "Sandy Valley Coal
13 Railway Company." The said books to be opened and sub-
14 scriptions received in the manner prescribed by the 57th chap-
15 ter of the Code of Virginia, second edition.

16 2. Whenever five thousand shares of the capital stock before
17 stated shall have been subscribed in the manner aforesaid, the
18 commissioners named in the first section, or any three of them
19 shall call a meeting of the stockholders, who may proceed to or-
20 ganize, and when so organized they are hereby created a body
21 politic and corporate, by the name and style of the "Sandy Val-

22 ley Coal Railway Company," and by that name shall have per-
23 petual succession, and shall be in law and equity capable of sue-
24 ing and being sued, pleading and being impleaded in all courts
25 of law and equity whatsoever, and also of contracting and being
26 contracted with, relative to the objects of the said corporation,
27 and they may have a common seal, and may change and alter
28 the same at pleasure, and shall have full power to make all rules
29 and by-laws for the regulation and management of said corpora-
30 tion, not inconsistent with the laws of this State or of the United
31 States.

32 3. The business affairs of said company shall be managed by
33 a board of five directors, to be elected annually by stockholders,
34 and the said board, at their first meeting after each election,
35 shall choose one of their number as President of said board, and
36 such other officers as they may deem necessary for the manage-
37 ment of the business affairs of said company. At all elections
38 for officers or otherwise, each stockholder shall be entitled to one
39 vote for every share of stock held by him or her, and in case of
40 a vacancy occurring in the board of directors, by death, resigna-
41 tion or otherwise, such vacancy shall be filled by the board from
42 among the stockholders.

43 4. The said company by its president, directors, agents and
44 servants, shall have the right and power to lay out, build and
45 construct a railway with a single or double track with all neces-
46 sary switches and turnouts, commencing in Wayne county as
47 aforesaid, on the Ohio River, near the mouth of Sandy, and ex-

48 tending by the nearest and best route along the Valley of said
49 Sandy, and along the Tug Fork of said river to a point opposite
50 the mouth of Pond Creek, in Logan county, with full power to
51 lay out and construct so many lateral branches to said railway
52 as the president and directors may deem necessary for the pur-
53 pose of reaching any point or any lands ——— containing coal
54 or other minerals, or timber; and the said railway and its later-
55 al branches, when completed, shall be a public highway for the
56 conveyance of passengers and the transportation of freight of
57 all descriptions subject to such rules and regulations in relation
58 thereto, as the president and directors and their agents may pre-
59 scribe and direct.

60 5. The capital of said company shall be expended in construct-
61 ing and equipping the said railway and its branches, and the
62 purchase of mineral and timber lands. The said company are
63 hereby authorized to borrow any amount of money not exceed-
64 ing one million dollars, and to issue bonds with coupons attach-
65 ed, bearing any rate of interest not exceeding seven per centum
66 per annum, and as security for the payment of the same to exe-
67 cute a mortgage or mortgages, upon their corporate franchises
68 and all their property, real, personal or mixed.

69 6. The said company are hereby authorized and empowered to
70 purchase, hold, use, and possess in fee simple or in any less
71 right, any quantity of land not exceeding ——— thousand acres,
72 and the same to sell, lease, mortgage or otherwise dispose of at
73 their pleasure, and make proper conveyances therefor.

74 7. For the purpose of laying out and locating their railway
75 and branches, the president and directors with their engineers
76 and agents shall have full power and authority to enter upon,
77 and pass through and over any lands, curtilages excepted, on
78 the contemplated route, and to occupy the same so long as they
79 may deem necessary for locating the said road. And when the
80 line of the said way is located, if the owners of said lands or
81 their agents, and the officers and agents of said company cannot
82 agree upon the value of such lands as the said company may
83 deem necessary to use and occupy for their railway depots,
84 warehouses and stations, the said company may have and hold
85 the said lands for their use in the manner following, to wit: The
86 said company shall make out a particular description of said
87 lands in writing and file it in the office of the clerk of the cir-
88 cuit court of the county in which the lands are located, stating
89 therein the sum they propose to pay therefor, and also file there-
90 with a bond with securities to the satisfaction of the Judge of
91 the said court conditioned to pay all that may be recover-
92 ed against them as hereinafter provided; and thereupon they
93 may enter upon and take possession of said lands, and proceed
94 at once to appropriate and use the same for the purposes desig-
95 nated in the said description; and the party or his agent owning
96 the said land may file with the said clerk of said court, his or
97 her claim therefor, in which shall be stated the sum he or she
98 may demand for said land, and the clerk of the said court shall
99 thereupon issue a writ commanding the sheriff of the county to

100 summon three disinterested persons to inquire into the matter
101 complained of, which writ shall be made returnable to the next
102 term of the court after its issue. The sheriff, after receiving
103 said writ, shall immediately notify the parties interested, and
104 shall summon the said viewers to meet with him at the time and
105 place designated, giving at least ten days notice to the parties;
106 and the sheriff shall administer an oath to the viewers which
107 he is hereby empowered to do, that they, and each of them,
108 will fairly, impartially and honorably assess, fix and determine
109 the amount said railway company shall pay for the use of said
110 land, and in so doing the said viewers shall take into consider-
111 ation the advantages likely to accrue to the other lands of the
112 said owner or owners, and deduct the value of said advantages
113 from the value of the land so appropriated by said company
114 at the time the said appropriation was made, and return their
115 report in writing under their hands and seals, setting forth the
116 amount, if any to be paid by the said railway company, which
117 report shall be certified to by the sheriff, and on the first day
118 of the next term of the court the judge of said court shall di-
119 rect judgment to be entered upon said report, if no exceptions
120 be taken and filed thereto, by either party; and after judgment
121 is entered upon said report, the company shall hold said land by
122 a good indefeasible title subject only to the payment of the
123 said judgment. The judge shall have power to determine and
124 order which party shall pay the costs of such proceeding.

125 8. Any stockholder of said company may assign and transfer

126 his or her stock on the books of the company, or by attorney
127 duly authorized so to do, and after such assignment and trans-
128 fer the assignee of said stock shall hereby become liable to said
129 company for all unpaid assessments on said stock, and the pre-
130 vious stockholder shall be released from further liability
131 therefor.

132 9. The Legislature reserves the right to add, to alter or re-
133 peal the powers and privileges herein granted ; provided, how-
134 ever, no injustice shall be done to the stockholders thereby.

135 10. This act shall be in force from its passage ; but shall ter-
136minate and be void, if the said company be not organized, and
137 in good faith, commence operations on its work within five
138 years from the date of its passage.

SUBSTITUTE FOR THE 1st AND 2d SECTIONS OF HOUSE

BILL 89.

1 1. C. W. Ricketson, Chas. Knapp, Laban T. Moore, Wm.
2 Ratcliff, R. B. Bowler, W. O. Leslie, Larz Anderson, Geo.
3 Shoenberger, John McVay, Wm. Bagaley, T. J. Simpson,
4 Wm. K. Pendleton, and their associates, successors, and as-
5 signs, and all who shall become stockholders, be and they are
6 hereby created and made a body politic and corporate by the
7 name, style and title of the Sandy Valley Coal Railway Com-
8 pany, and by that name shall have perpetual succession, and
9 shall be in law and equity, capable of suing and being sued,
10 pleading and being impleaded in all courts of law and equity
11 whatsoever, and also of contracting and being contracted with,
12 relative to the business and objects of the said corporation,
13 and they may have a common seal, and may change and alter
14 the same at pleasure, and shall have full power to make rules
15 and by-laws for the regulation and management of said corpo-
16 ration not inconsistent with the laws of this State or of the
17 United States.

18 2. The capital stock of said company shall be one million
19 five hundred thousand dollars, divided into shares of one hun-

20 dred dollars each. Books to be opened by the said corpora-
21 tion or any three of them, to receive subscriptions to the said
22 capital stock within twelve months after the passage of this
23 act, at Cincinnati, Wheeling, Pittsburg, or such other places
24 as they may designate.

HOUSE BILL No. 91.

A BILL PROVIDING FOR THE ESTABLISHMENT OF A SYSTEM OF FREE SCHOOLS.

Be it enacted by the Legislature of West Virginia :

1 1. In conformity with the provisions of the 12th article of
2 the Constitution, a system of free schools is hereby established,
3 according to the provisions of this act, in order to provide the
4 means of instruction for all the youth of the State, in such
5 fundamental branches of learning as are indispensable to the
6 proper discharge of their social and civil duties; and for this
7 purpose each and every organized township, within the several
8 counties of this State, or which may hereafter be organized
9 within the same, is hereby constituted a school district, to be
10 confided to the care and management of a board of education
11 as hereinafter constituted.

12 2. At the time and place of holding elections for township
13 officers, as provided in an act entitled "An Act providing for
14 and regulating township meetings and elections," and in con-
15 formity with the provisions of the same, and of the schedule
16 thereto annexed, the qualified voters of the several townships,
17 shall, in addition to the officers therein specified, elect three
18 school commissioners of whom the one having the highest num-
19 ber of votes shall hold his office for the term of three years;

20 the one having the next highest number of votes shall hold his
21 office for the term of two years; and the one having the lowest
22 number of votes shall hold his office for the term of one year,
23 and annually thereafter; at the time and place of holding
24 township meetings and elections, and in conformity with the
25 act regulating the same; one commissioner shall be elected who
26 shall hold his office for the term of three years: Provided, that
27 if at the first election, any two or more of the school commis-
28 sioners elected shall have an equal number of votes, the per-
29 sons so elected shall determine by lot the duration of their res-
30 pective terms of office; and provided further, that no person
31 shall be deemed ineligible to the office of school commissioner,
32 in consequence of having held the office the preceding term.

33 3. The commissioners so elected, shall, within ten days after
34 being duly notified by the township clerk of their election, pro-
35 ceed to qualify, by taking an oath or affirmation to support the
36 Constitution of the United States and of the State of West
37 Virginia, and faithfully, diligently and impartially to discharge
38 the duties of their office; which oath or affirmation the clerk
39 of the township is hereby authorized to administer to the com-
40 missioners aforesaid; a copy of which oath or affirmation,
41 signed by the commissioners aforesaid, shall be kept by him
42 upon the files of his office; and if any vacancy should occur in
43 the office of school commissioners, by death, resignation, refu-
44 sal to serve or otherwise, the board of education of the town-

45 ship shall fill such vacancy within ten days after being inform-
46 ed thereof, by the appointment of some suitable person, who
47 shall hold his office until the next annual election, when a com-
48 missioner shall be elected for the unexpired term.

49 4. The commissioners so elected and qualified, together with
50 the clerk of the township, shall constitute the board of educa-
51 tion of their proper township, and they and their successors in
52 office shall be a body corporate in law, under the name and
53 style of "The Board of Education of the township of——,"
54 and as such may purchase, hold and sell or convey real and
55 personal property for the uses of education within their dis-
56 trict, may receive any gift, grant, donation or devise; may be-
57 come a party to suits and contracts, and do other corporate
58 acts. They shall have the care, custody and management of,
59 and be invested with the title to, all real and personal proper-
60 ty for the use of the public schools within their district, and
61 may manage or dispose of the same, as in their opinion will
62 best subserve the interests of education and the benefit of the
63 schools.

64 5. The clerk of the township shall be the secretary of the
65 board of education, but shall have no vote except in the case
66 of an appointment to fill a vacancy in the office of school com-
67 missioner. He shall be present at all meetings of the board,
68 and shall record in a book to be provided for the purpose, all
69 their official acts and proceedings, which shall be a public rec-

70 ord, open to the inspection of all persons interested therein,
71 all which proceedings when so recorded shall be attested by his
72 signature thereto as secretary of the board. He shall have
73 the care of, and shall preserve in his office, all papers contain-
74 ing evidence of title, contracts and obligations, and in general
75 shall record or keep on file, in his office, all such papers and
76 documents as may be so required by any of the provisions of
77 this act, or by the orders of the board of education. For which
78 services he shall receive such compensation as the board of
79 education may determine.

80 6. The board of education of each school district shall, so
81 soon as practicable after they are duly elected and qualified,
82 and annually thereafter, within ten days after the——day
83 of———take, or cause to be taken, an enumeration of all
84 the unmarried youth, resident within their school district, be-
85 tween the ages of five and twenty-one years, distinguishing
86 between males and females, and shall cause the result of such
87 enumeration verified by the oath or affidavit of the person
88 taking the same, to the effect that such enumeration is correct,
89 and that he has used all means within his power to have it so,
90 to be recorded in the office of their secretary, which enumera-
91 tion shall be transmitted by the said secretary to the county
92 superintendent. They shall divide their district into conve-
93 nient sub-divisions, assigning to each not less than fifty youths,
94 between the ages of five and twenty-one years, except in cases

95 where, in the opinion of the board, it is necessary to reduce
96 the number, and shall cause to be taught in each, at the ex-
97 pense of the district, one school for not less than——months
98 in the year, in which shall be taught, by a competent teacher
99 or teachers, Orthography, Reading, Writing, Arithmetic, Eng-
100 lish Grammar and Geography, with such other branches as
101 the board may decide, or the circumstances of the school may
102 require. In making these sub-divisions, due regard shall be
103 had to any school house already erected, or school house site
104 already procured, so far as may be and as shall best subserve
105 the interests of common schools. They shall make, or cause
106 to be made, a map or plat of their township with the sub-di-
107 visions plainly marked, which map or plat shall be kept in
108 the office of the township clerk, and which they may change
109 in regard to the boundaries of the sub-divisions from time to
110 time as the interests of the schools may require.

111 7. The board of education shall take the control and man-
112 agement of all the schools within their district, in pursuance
113 of which they shall be charged with the following powers and
114 duties.

115 I. They shall establish a sufficient number of common
116 schools for the education and instruction of every individual
117 resident within their district between the ages of five and
118 twenty-one years, who may apply for admission and instruc-
119 tion, either in person or by parent, guardian or next friend.

120 II. They shall cause suitable lots of ground to be procured
221 and suitable buildings to be erected, purchased or rented, for
122 school houses, and shall supply them with the proper fuel,
123 and with such furniture and fixtures as are necessary to the
124 comfort, health, good order and progress of the pupils.

125 III. They shall have the appointment of all the teachers
126 of the public schools within their district, shall fix the amount
127 of teacher's salaries, and may dismiss them at any time for
128 incompetency, cruelty, negligence or immorality.

129 IV. They shall direct what branches of learning, in addi-
130 tion to those prescribed in the 6th section of this act, shall be
131 taught in each school, and what class books shall be used
132 within their district, and may suspend or expel from any
133 school any pupil found guilty, on full examination and hear-
134 ing, of refractory or incorrigibly bad conduct.

135 V. They shall visit all the schools of their district once
136 within two weeks after the opening, and again within two
137 weeks preceding the close of each school, and at such other
138 periods during the term as in their opinion the exigencies of
139 each school may require, at which visits they shall examine
140 the register of the teacher and see that it is properly kept,
141 and other matters touching the school house, furniture, fix-
142 tures, library, studies, discipline, mode of teaching and im-
143 provement of the school; shall confer with the teacher in re-
144 gard to its condition and management, and make such sug-

145 gestions as in their view would promote the interest and effi-
146 ciency of the school, and the progress and good order of the
147 pupils. The results of which visitation they shall cause to be
148 entered on their minutes.

149 VI. They shall pay all necessary expenses of the schools
150 by drafts upon the county treasurer, or other proper disbur-
151 sing officer of the funds raised within each district for school
152 purposes, which drafts shall be signed by the clerk of the
153 township as secretary of the board, and an account of the
154 same shall be entered by him in a book to be kept for the
155 purpose.

156 VII. They shall annually, on or before the———day
157 of———in each year, make a report to the county superin-
158 tendent, setting forth the number of shools within their dis-
159 tricts, the number and condition of their school houses, the
160 number of scholars in attendance during the year, distinguish-
161 ing between males and females, the average of daily attend-
162 ance, the length of time the schools have been kept open dur-
163 ing the year, the amount of tax levied and collected for school
164 purposes within their district during the year, the number of
165 teachers employed, distinguishing between male and female,
166 the average wages of each per month, including board, the
167 amount expended for building, repairing and furnishing school
168 houses, the amount and value of apparatus and libraries be-
169 longing to their district for the use of the schools, and such

170 other information as may be necessary and beneficial, in order
171 to form a just estimate of the operation of the school system.

172 8. Whenever, in the opinion of the board, the interests of
173 education within their district require that a central or union
174 school of higher grade be established, the said board shall
175 call a township meeting, by giving at least ten days notice,
176 by written or printed advertisements, posted in at least five of
177 the most public places within their district, specifying the
178 time, place and object of the meeting, which meeting, when
179 convened, shall be organized and conducted, as provided for
180 the annual township meetings, and when so organized, the
181 board of education shall submit the proposition for the estab-
182 lishment of such school, with the reasons for the same, togeth-
183 er with a carefully prepared estimate of the cost, and if, after
184 full deliberation and discussion, two-thirds of the qualified
185 voters present and voting, shall decide in favor of the propo-
186 sition, such school shall be taken to be established, and the
187 estimated additional cost shall be added to the next annual
188 assessment for school purposes within the district, and the
189 board of education shall proceed to put such school into oper-
190 ation.

191 9. Such school, when established, shall be for the benefit
192 of all the inhabitants of the district, and shall be kept by a
193 competent teacher or teachers, of good moral character, who,
194 in addition to the branches of learning prescribed for the

195 primary schools, shall be capable of giving instruction in
196 Book keeping, Algebra, Geometry and Surveying, with such
197 other branches pertaining to the natural sciences and general
198 literature, as the board of education may determine.

199 10. In regard to such union schools, the several boards of
200 education, shall be invested with the same powers, and per-
201 form the same duties, as in reference to the primary schools,
202 so far as these are applicable. They shall determine the ages
203 and qualifications of the scholars to be admitted into them,
204 the length of time they are to be kept in operation during the
205 year, and shall report separately to the county superintend-
206 ent, all such facts in regard thereto, as will be necessary to
207 form a just estimate of the state of education within their
208 district.

209 11. No school district shall receive its share of the State
210 fund for the support of the common schools, unless the report
211 required to be made by the board of education thereof, shall
212 first have been filed in the office of the county superintendent
213 within the time prescribed by law.

TEACHERS.

214 12. No teacher shall be employed to teach in any of the
215 public schools of this State, until he shall have presented to
216 the board of education of the district in which he applies, a
217 certificate in duplicate of his qualification to teach a school of
218 the grade for which he applies; the duplicate copy of which

219 shall be filed with the clerk of the township, and no draft or
220 order for the payment of his salary shall be issued by the
221 said clerk, without such duplicate certificate, having been
222 filed in his office at the commencement of the term.

223 13. It shall be the duty of every teacher to keep a daily
224 register of his school, in manner and form as prescribed by
225 the State Superintendent, blank forms of which register shall
226 be furnished to every teacher by the board of education of
227 the district at the commencement of his term, and at the
228 close thereof shall be deposited in the office of the township
229 clerk, properly filed according to the instructions accompany-
230 ing the same from the State Superintendent, as a condition
231 precedent to his receiving a draft for the amount of his
232 salary.

233 14. It shall be the duty of all teachers employed in any of
234 the public schools of this commonwealth, to inculcate the
235 duties of piety, morality and respect for the laws and govern-
236 ment of their country. And all teachers, boards of educa-
237 tion and all other school officers created by this act, are here-
238 by charged with the duty of providing that *moral training*
239 for the youth of this commonwealth, which shall contribute to
240 securing good behavior, virtuous conduct, and to furnishing
241 the State with exemplary citizens.

COUNTY SUPERINTENDENT.

242 15. At the time and place of holding elections for county

243 officers, the voters of the several counties of this State shall
244 elect one person of literary and scientific attainments, of skill
245 in the art of teaching, and of good moral character, as coun-
246 ty superintendent, who shall hold his office for the term of
247 two years, and until his successor is elected and qualified, and
248 it shall be the duty of the board of supervisors of the county
249 to whom the returns of election are made, to certify the fact
250 of such election to the State Superintendent, together with
251 the name and postoffice address of the person so elected; and
252 if the State Superintendent is satisfied that the person so
253 elected has the requisite qualifications according to the intent
254 and spirit of this act, he shall thereupon issue his commission
255 to the person so elected and certified to him. If the State
256 Superintendent is satisfied, either from personal knowledge
257 or from such information as he may obtain, that the person
258 returned to him, has not the requisite qualifications as re-
259 quired by this act, he may withhold his commission, and fill
260 the office by appointment until the next annual election, when
261 a county superintendent shall be elected for the unexpired
262 term.

263 16. Every person elected or appointed county superinten-
264 dent of common schools, shall, before entering upon the du-
265 ties of his office, take and subscribe an oath or affirmation
266 before the judge of the circuit court of his county, to support
267 the Constitution of the United States and of the State of

268 West Virginia, and that he will perform all the duties of his
269 office honestly, impartially, diligently, and according to law,
270 to the best of his skill and ability, which said oath or affir-
271 mation, being subscribed by the said county superintendent
272 and attested by the said judge, shall be filed in the office of
273 the State Superintendent.

274 17. The county superintendent shall examine all candi-
275 dates for the profession of teacher, as to their competency
276 and capacity to teach orthography, reading, writing, arith-
277 metic, English Grammar, and geography, if the application
278 is for a primary school, and if the application is for a union
279 or central school, he shall examine the applicant as to his
280 competency and capacity to teach the additional branches re-
281 quired for such school, and if satisfied of the competency and
282 capacity of the applicant to teach and govern such school,
283 and that he or she is of good moral character, he shall give
284 a certificate in duplicate, accordingly. The county superin-
285 tendent shall keep a register of all those to whom certificates
286 have been awarded, stating the character and grade of cer-
287 tificate, and the time when issued. No certificate issued by
288 a county superintendent shall be of force, except in the coun-
289 ty in which it was issued, nor for a longer period than one
290 year, and the county superintendent may revoke the certifi-
291 cate of any teacher within the county for any cause which
292 would have justified the withholding thereof when the same

293 was granted, by giving ten days notice to the teacher and the
294 board of education by whom he is employed, of his intention
295 to revoke such certificate.

296 18. It shall be the duty of the county superintendent to
297 visit all the schools within his county, at least three times
298 during any term of six months, and to note the course and
299 method of instruction, and the branches taught, and to give
300 such directions in the art of teaching and the method thereof
301 in each school, as to him shall seem necessary and expedient,
302 so that uniformity in the course of studies, and methods of
303 instruction employed, shall be secured as far as practicable
304 in the schools of the several grades respectively. He shall
305 acquaint himself so far as practicable with the character and
306 condition of each school, noting any deficiencies that may
307 exist, either in the government of the school, the classifica-
308 tion of its pupils, or the method of instruction employed in
309 the several branches, and shall make such suggestions, in pri-
310 vate to the teachers, as to him shall appear to be necessary
311 to the good order of the school and progress of the pupils.
312 He shall note the character and condition of the school
313 houses, the sufficiency or insufficiency of their furniture and
314 fixtures, and shall make such suggestions to the several town-
315 ship boards of education as in his opinion shall seem condu-
316 cive to the comfort and progress of the pupils of the several
317 schools.

318 19. It shall be the duty of the county superintendent to
319 aid the teachers in all proper efforts to improve themselves in
320 their profession. For this purpose he shall encourage the
321 formation of county associations of teachers for mutual im-
322 provement; shall attend the meetings of such associations
323 whenever practicable, and give such advice and instruction in
324 regard to their conduct and management, as in his judgment,
325 will contribute to their greater efficiency. In connection with
326 the superintendents of adjoining counties, each county super-
327 intendent shall encourage the formation of Teachers' Insti-
328 tutes; shall attend and participate in the exercises of the
329 same, so far as practicable, and shall use all proper means to
330 improve the efficiency of the teachers, and to elevate their
331 profession. He shall use all proper means to create and fos-
332 ter among the people an interest in common schools, and for
333 this purpose, shall, as far as practicable, take advantage of
334 such public occasions as may present themselves, as the dedi-
335 cation of school houses, public examinations, &c., to impress
336 upon the people the importance of public education, and the
337 duty of sustaining the system of free schools as established
338 by law. He shall at all times conform to the instructions of
339 the State Superintendent, as to all matters within the juris-
340 diction of the said superintendent, and shall serve as the or-
341 gan of communication between him and the several township
342 boards of education. He shall distribute from his office, all

343 blanks, circulars, copies of school laws, and other communi-
344 cations from the State Superintendent, to the several boards
345 and persons entitled to receive the same.

346 20. It shall be the duty of the county superintendent to
347 secure, as far as practicable, uniformity in the text books used
348 in the schools throughout his county, but no county superin-
349 tendent shall act as agent for any author, publisher or book
350 seller; nor shall directly or indirectly receive any gift, emol-
351 ument or reward for his influence in recommending the
352 use of any book or school apparatus or furniture of
353 any kind whatever. Any act herein prohibited, shall be
354 deemed a violation of his official oath, and any offer or solici-
355 tation to such an act shall be considered an attempt to bribe
356 and corrupt a public officer.

357 21. It shall be the duty of the several county superinten-
358 dents to receive and revise the reports from the several town-
359 ship boards, and to see that they are in proper form, and ac-
360 cording to the intent and spirit of the law, and where defi-
361 ciencies exist to return them for correction. It shall be their
362 duty to make out from these reports and from their own infor-
363 mation a report for each county in tabular form to the State
364 Superintendent, setting forth, under appropriate heads, the
365 following items, viz: The number of schools in each district;
366 the average number of months the schools have been taught
367 during the year; the number of male teachers; the number

368 of female teachers; the average salary per month of
369 male teachers; the average salary per month of female
370 teachers; whole number of youth within each district between
371 the ages of five and twenty-one years; the number entered
372 in the schools of the district; the average daily attendance;
373 amount levied within each district for the support of schools;
374 amount levied for building purposes; amount received from
375 State appropriation; costs of instruction; fuel and contin-
376 gencies; amount expended for purchasing, renting, repairing
377 and furnishing school houses. In addition to this report, it
378 shall be the duty of the county superintendent to make out
379 and transmit to the State superintendent a detailed report of
380 the condition and character of the schools within his
381 county, noting all deficiencies and suggesting their rem-
382 edies, with such remarks upon the operation of the school
383 laws as his experience and observation may have suggested,
384 pointing out wherein he regards them as deficient, and what
385 amendments may be required to render them efficient.

386 22. The county superintendents shall receive each the sum
387 of ——— dollars annually, to be paid quarterly out of the
388 school funds in the treasury of their county, upon the war-
389 rant of the State superintendent, but no warrant shall be is-
390 sued by the said superintendent in favor of any county su-
391 perintendent for his last quarter's salary, unless the reports
492 required of him by this act shall first have been filed with the
393 State superintendent.

STATE SUPERINTENDENT.

394 23. At the next annual election for State and county offi-
395 cers, a State superintendent of free schools shall be elected,
396 who shall hold his office for the term of two years, and until
397 his successor is elected and qualified. When a vacancy may
398 occur in said office by death, resignation or otherwise, the
399 Governor shall fill the same by appointment for the unexpired
400 term.

401 24. The State superintendent shall, before entering upon
402 the duties of his office, give bond to the State of West Vir-
403 ginia in the penal sum of ——— dollars, conditioned for the
404 faithful discharge of his official duties, and shall likewise
405 take an oath or affirmation to support the Constitution of the
406 United States and of the State of West Virginia, and that
407 he will diligently, faithfully, impartially and according to
408 law, and to the best of his skill and abilities perform all the
409 duties of his office, which oath or affirmation shall be endor-
410 sed on the back of his bond and filed in the office of the Sec-
411 retary of State.

412 25. The State superintendent shall be charged with the
412 general supervision of all the county superintendents and all
413 the common schools of the State, and shall see that the school
414 system is as early as practicable carried into effect and put in
415 uniform operation. He shall prescribe and cause to be pre-
416 pared all forms and blanks necessary in the details of the

417 system so as to secure its uniform operation throughout the
418 State, and shall cause the same to be forwarded to the sever-
419 al county superintendents, to be by them distributed to the
420 several persons entitled to receive the same. He shall decide
421 upon a written statement of the facts, all questions and con-
422 troversies arising out of the interpretation and construction
423 of the school laws, in regard to the rights, powers and duties
424 of township boards of education, school commissioners and
425 county superintendents, and shall keep a record of all such
426 decisions. He shall cause as many copies of this act and all
427 other school acts in force, with the above decisions appended
428 thereto, with such forms, regulations and instructions as he
429 may judge expedient, thereto annexed, to be from time to time
430 published, as he may deem expedient; and shall cause the
431 same to be forwarded to the county superintendents, to be by
432 them distributed to the persons entitled to receive them.

433 26. He shall, at the time and place to be appointed by
434 him, convene the county superintendents within each judicial
435 circuit of the State, once in each year, for the purpose of
436 conference upon the interests of education within their sever-
437 al jurisdictions, and giving such instructions, and making such
438 suggestions in regard to the discharge of their several duties
439 as to him may seem expedient, and as the interests of edu-
440 cation may seem to require. He shall take advantage of
441 such meetings to address the people on the subject of educa-

442 tion, and in exposition of the system of free schools as estab-
443 lished in this State.

444 27. It shall be the duty of the State superintendent to aim
445 at perfecting the system of free schools as established in this
446 State; and for this purpose it shall be his duty to correspond
447 with educators and school officers abroad, to acquaint himself
448 with the various systems of common schools established in
449 other States and in other countries, to collate their results as
450 exhibited in the reports of their several superintendents, and
451 to use all efforts and means which will be necessary to
452 enable him to render available to the purposes of the Legis-
453 lature, the combined results of the experience of other com-
454 munities, with his own experience and observation. He shall
455 acquaint himself intimately with the peculiar educational
456 wants of each section of the State, and shall take all proper
457 means to supply them, so that the schools shall be as nearly
458 as possible equal and uniform in grade throughout the State.
459 He shall acquaint himself with the different systems and
460 methods of instruction which may be introduced among edu-
461 cators, and shall explain and recommend such as experience
462 and sound principles of education may have demonstrated to
463 be valuable, and, generally, it shall be his duty to endeavor
464 to render available to the people of this State, all such im-
465 provements in the system of common schools, and in the
466 methods of instruction, as may have been tested and proved

467 by the experience of other communities and the best educa-
468 tors abroad.

469 28. He shall, annually, on or before the ——— day of
470 ———, report to the Auditor of State, the number of per-
471 sons between the ages of five and twenty-one years in each
472 county of the State, and shall, at each session of the Legis-
473 lature, make a report to the same in regard to the condition
474 of common schools within the State, embracing all statistics
475 compiled from the reports of the county superintendent,
476 which will be necessary to give a proper exhibition of the
477 workings of the system, together with such plans as he may
478 have matured for the management and improvement of the
479 free school fund, and for the better and more perfect organi-
480 zation and efficiency of common schools, and likewise all such
481 matters in relation to his office and to the common schools as
482 he may deem expedient to communicate.

483 29. The State superintendent shall have his office at the
484 seat of government, where a suitable office shall be provided
485 for him, supplied with the necessary furniture and fixtures,
486 and provided with such blank books and stationery as the
487 business of the office may require.

488 30. The State Superintendent may revoke the commission
489 of any county superintendent on the petition of a majority of
490 the several boards of education within the county asking his
491 removal.

492 31. He shall provide a seal with suitable device, for the
493 department of common schools, by which copies of papers
494 deposited or filed therein, and all official acts and decisions
495 may be authenticated under said seal, and when so authenti-
496 cated shall be evidence equally and in like manner with the
497 originals. He shall sign all orders on the State Treasurer
498 for the payment of such moneys to the treasurers of the sev-
499 eral counties for the use of the common schools as they may
500 be entitled to receive from the State, and for all other moneys
501 to be paid out of the Treasury of the State for school pur-
502 poses.

503 32. He shall receive annually the sum of ——— dollars
504 in payment of his services, to be paid quarterly out of the
505 school fund, upon the warrant of the Auditor of State.

EXAMINATION OF TEACHERS AND TEACHERS' CERTIFICATES.

506 33. In order to afford encouragement and incentive to
507 teachers to perfect themselves in their profession, and at the
508 same time to secure the profession from the intrusion of un-
509 worthy members and the public from the evils of incompetent
510 teachers, the following regulations shall be observed by coun-
511 ty superintendents in regard to examinations and the grant-
512 ing of teachers' certificates:

513 I. No applicant shall be admitted to an examination unless
514 the county superintendent shall have reasonable evidence that
515 he or she is of good moral character, and loyal to the Gov-

ernment of the United States. Profanity, obscenity and in-
temperate habits, shall always be held to exclude from the
privilege of an examination.

II. No college diploma, or certificate or recommendation
from the president or faculty of any college or academy, shall
be taken to supersede the necessity of examination by the
county superintendent,

III. County superintendents shall grade the certificates
granted according to the following scheme, numbering them
according to the merits of the applicant from 1 to 5. No. 3
shall be assumed as the medium between a *very good* and an
indifferent teacher, so that the scheme will stand thus: No. 1,
a *very good* teacher—one accomplished in every respect; No.
2, a *good teacher*; No. 3, *medium*; No. 4, *below medium*;
No. 5, *indifferent*. A No. 5 certificate shall never be grant-
ed to any teacher more than once. If, upon a second exami-
nation, the applicant is not found entitled to a higher grade,
no certificate shall be granted. A No. 4 certificate shall not
be granted more than twice in succession to the same appli-
cant. If, at the third examination, the applicant is not found
entitled to a higher grade, no certificate shall be granted.
When any teacher has received three No. 1 certificates, he
shall be entitled to receive from the county superintendent a
recommendation to the State superintendent for examination,
and if found worthy, the State superintendent shall grant

541 him a professional certificate in proper form, engraved upon
542 parchment, authenticated by the seal of his office, and attest-
543 ed by his signature thereto, by which certificate the bearer
544 shall be held to be legally admitted to the profession of teach-
545 er within the State of West Virginia; which certificate shall
546 be valid throughout the State, and during the life of the
547 bearer thereof, provided, that the State superintendent may
548 revoke such professional certificate for immorality or disloy-
549 alty when clearly proven. For every professional certificate
550 so granted, a fee of five dollars shall be charged, to be ap-
551 plied to the uses of common schools; and it is further provi-
552 ded that from and after five years from the passage of this
553 act, no person shall be eligible to the office of county super-
554 intendent, who shall not have received such professional cer-
555 tificate. And it is hereby made the duty of each county
556 superintendent on or before the — day of — in each
557 year, to make out and transmit to the State superintendent,
558 a list of all candidates examined by him during the year,
659 stating their names and residence, with the grade of certifi-
560 cate granted to each; from which the State superintendent
561 shall make out and transmit to the county superintendent a
562 general list containing the names, residence and grade of
563 certificate of each person examined within the State during
564 the year, which lists shall be kept in the offices of the county
565 superintendents for information and reference.

SCHOOL FUND.

566 34. There shall be constituted a fund for the support of
567 free schools, which shall belong in common to the people of
568 this State, and which shall consist of all such sums as have
569 accrued, or may hereafter accrue to this State, from any of
570 the sources enumerated in the first section of the twelfth ar-
571 ticle of the constitution, and it is hereby made the duty of
572 the Auditor of State, from and after the passage of this act, and
573 from time to time thereafter, as such sums may accrue to and
574 be paid into the Treasury of the State, to pass such sums of
875 money to the credit of the free school fund, and the State of
576 West Virginia is hereby pledged to pay the interest annually,
577 on all such sums of money as may have been paid into the
578 Treasury of the State from any of the sources above men-
579 tioned, at the rate of six per cent. per annum. And it is fur-
580 ther made the duty of the said Auditor to open in a book to
581 be provided for the purpose, an interest account with the said
582 fund, in which shall be stated, all items of interest accruing
583 from said fund from the time any principal sum was paid into
584 the Treasury until the end of the fiscal year, which interest
585 shall be distributed among the several counties of this State,
586 for the support of free schools as hereinafter provided.

587 35. In addition to the interest of the free school funds
588 there shall likewise be distributed, according to the second
589 section of the twelfth article of the constitution, and in the

590 manner herein provided, the net proceeds of all fines, confis-
591 cations and forfeitures accruing to this State under the laws
592 thereof; the proceeds of a capitation tax of one dollar on
593 each white male inhabitant over twenty-one years of age, and
594 such sum as may be produced by a tax of — mills upon the
595 dollar valuation of all taxable property of the State at the
596 last annual assessment, which tax shall be assessed and col-
697 lected at the same time and in the same manner as other State
598 taxes are assessed and collected; provided, that no sheriff or
599 collector shall receive more than one per cent. for the amount
600 actually collected of taxes for school purposes; which taxes,
601 when collected, shall be paid into the Treasury of the State
602 to be distributed, with other school funds, in the manner
603 hereinafter provided.

604 36. It shall be the duty of the Auditor of State, on or be-
605 fore the — day of — in each year, after deducting
606 the salary of the State superintendent and all the necessary
607 expenses of his office, to apportion among the several counties
608 of the State the money remaining in the treasury for distri-
609 bution for school purposes, according to the number of un-
610 married youth residents in each county of the State, between
611 the ages of five and twenty-one years, according to the list
612 furnished him by the State superintendent, and to notify the
613 said superintendent of such apportionment, with the amount
614 which each county is entitled to receive. The said superin-

615 tendent shall thereupon draw his warrant upon the State
616 Treasurer in favor of the treasurers of the several counties,
617 for such amounts as they are respectively entitled to receive,
618 according to the apportionment of the Auditor of the State,
619 and shall at the same time notify the several county superin-
620 tendents of the amounts to which their several counties are
621 entitled. And each county superintendent upon receiving
622 notification of the amount to which his county is entitled,
623 shall, after deducting the amount of his own salary, appor-
624 tion the remainder among the several townships of his county
625 according to the number of unmarried youth resident within
626 the same, between the ages of five and twenty-one years, and
627 shall notify the several township clerks of the amount appro-
628 priated to their respective townships. It shall be the duty of
629 the several township clerks, on receiving notification of the
630 amounts in the county treasury to the credit of their respec-
631 tive townships, to call a meeting of the boards of education
632 of their respective townships, who shall make an estimate
633 of the additional sum, if any, necessary for the support of
634 the free schools of their district for the time required by law
635 for the ensuing year, or for such longer time as a majority of
636 the voters of the township at a meeting, regularly convened
637 for that purpose may have directed, and shall levy the amount
638 of such estimate upon the persons and property of their dis-
639 trict, taking as the basis of taxation, the valuation of the last

640 annual assessment the State and county purposes. Upon
641 this valuation the clerk of the township shall make the assess-
642 ment of the sum required, and shall deliver a duplicate list
643 of such assessment to such collecting officer as the board may
644 appoint. The amounts so levied and collected shall be paid
645 into the county treasury to the credit of the several townships,
646 so levying and collecting the same.

647 37. All payments by the several boards of education of
648 each township out of the fund for the support of common
649 schools, shall be made by draft upon the county treasury,
650 which drafts shall be signed by the township clerk by order
651 of the board of education, and it shall be the duty of the
652 said clerk to keep a correct account of all drafts drawn upon
653 the county treasury, and at the close of the school year to
654 furnish a list of the same with the several amounts for which,
655 and the names of the persons in whose favor they were drawn,
656 to the county superintendent who shall make an annual set-
657 tlement with the county treasurer, and report the same to the
658 State superintendent.

SCHOOL HOUSES AND SCHOOL HOUSE SITES.

659 38. It shall be the duty of the several township boards of
660 education, so soon as practicable, after their township has
661 been subdivided as provided in the sixth section of this act,
662 to provide school houses in such locations as will best accom-
663 date the majority of the inhabitants of such subdivisions, and

664 to furnish them with such furniture and other appendages as
665 are necessary to the comfort, health, and progress of the pu-
666 pils ; and for this purpose the are hereby empowered to levy
667 a tax of — mills upon the dollar, on the taxable property
668 of the district, which tax shall be assessed by the township
669 clerk, upon the basis of the last valuation for State and coun-
670 ty purposes, and a duplicate of such assessment shall be de-
671 livered to such collector as may be appointed by the board,
672 and when collected shall be paid over to such treasurer as the
673 board, under proper regulations looking to the security of
674 the fund, may appoint, and the amounts so collected and paid
675 over, together with all gifts, grants, donations, and devises
676 which may be made for such purpose, shall constitute a build-
677 ing fund to be exclusively appropriated to the purchase of
678 sites for school houses, the construction and furnishing of the
679 same, or for the rent, hire or repair of such property for the
680 use of the common schools of the district.

681 39 Wherever school houses, school house sites or other
682 property is now held by trustees or others for the use of
683 schools, the board of education of the township in which
684 such property is held, shall procure conveyance of the same
685 for the use of free schools wherever practicable, and shall
686 cause all such property to be valued by three disinterested
687 persons not resident within the sub-division in which such
688 property is located, and the amount of such valuation shall

689 be credited to the inhabitants of the sub-division in which
690 such property is located, on their annual assessment for build-
691 ing purposes.

692 40. It shall be the duty of the boards of education within
693 the several townships, as soon as practicable, after the pas-
694 sage of this act, and on a day to be appointed by the county
695 superintendent, to examine, in connection with the county
696 superintendent, all the school houses and school property
697 within their district, and of which they may have received
698 conveyance, and all such school houses as are conveniently
699 and properly located, and are deemed sufficient, or capable of
700 being rendered so, by repair or alteration of structure, shall
701 be established as the school houses of the respective sub-divi-
702 sions within which they are located ; and all houses which are
703 inconveniently or improperly located, or insufficient, and in-
704 capable of being rendered sufficient by a reasonable expendi-
705 ture, shall be condemned and exposed to public sale, the pro-
706 ceeds thereof being added to the building fund.

707 41. No new school house shall be erected, or an old one
708 improved unless the plan thereof shall have been submitted to
709 the county superintendent and approved by him ; and it is
710 hereby made the duty of the county superintendent to ac-
711 quaint himself with the principles of school house architec-
712 ture, and in all his plans for such structures to have regard
713 to economy, convenience, and durability of structure. And

714 in order to aid the county superintendents in this branch of
715 their duties, it is hereby made the duty of the State superin-
716 tendent to furnish, at the expense of the school fund, the of-
717 fice of each county superintendent within the State, with one
718 copy of Barnard's School House Architecture, or such other
719 standing work upon the subject as he may prefer; such work
720 to be kept in the office of the county superintendent for con-
721 sultation and reference, and to be delivered by him to his suc-
722 cessor.

723 42. The boards of education of the several townships may
724 borrow money for building purposes upon the credit of the
725 building fund, but no greater amount of money shall be bor-
726 rowed at any one time than the proceeds of the fund for five
727 years would be sufficient to liquidate, nor shall the building
728 fund of any township be pledged for any debt for a longer
729 period than five years.

730 43. When land has been designated by the board of edu-
731 cation of any township as a suitable location for a school
732 house and the necessary buildings, or for the enlarging of a
733 school house lot, if the owner or owners refuse to sell the
734 same, or demand a price, therefor, which is deemed by the
735 board unreasonable, the board of education may petition the
736 circuit court of their county to have such lot of ground con-
737 demned for the use of public schools, and to have a jury of
738 viewers appointed, to consist of three discreet persons not

739 resident within the township within which such land is loca-
740 ted, who being duly sworn or affirmed faithfully and impar-
741 tially to try all matters submitted to them, shall assess the
742 value of such land, and upon due return being made of such
743 assessment, and the amount thereof being paid or tendered to
744 the owner or owners of the land in question, the said board
745 may enter thereon and use such land for school house purpo-
746 ses; provided, that no land shall be taken which shall exceed
747 in quantity eighty square rods.

748 44. All school houses, school house sites and other proper-
749 ty for the use of free schools, shall be exempt from taxation,
750 and also from sale or execution, or other process in the na-
751 ture of an execution.

SCHOOL YEAR AND MONTH.

752 45. The school year shall commence on the first day of
753 September, and all reports, settlements, &c., shall be made
754 in reference to that day. The school month shall be held to
755 consist of twenty-two days in all contracts with teachers, and
756 other operations of the boards of education, and no school
757 shall be kept in operation for the purposes of ordinary in-
758 struction on any Saturday, but it shall be taken as a part of
759 the contract with every teacher, that two Saturdays of every
760 month shall be devoted by the teachers of each district to ap-
761 propriate exercises for mutual improvement, under such regu-

762 lations as the board of education under the instructions of the
763 county superintendent may designate.

764 46. All acts and laws heretofore existing in this State in any
765 way inconsistent with the provisions of this act, are hereby
766 repealed.



HOUSE BILL No. 92.

**A BILL FIXING THE COMPENSATION OF
CERTAIN OFFICERS AND CLERKS.**

Be it enacted by the Legislature of West Virginia:

1 1. The Attorney General shall be paid the
2 annual salary of———dollars; the Adjutant
3 General shall be paid the annual salary of——
4 dollars; the agent of the State for the distribu-
5 tion of vaccine matter shall be paid one hun-
6 dred dollars annually for his services; the clerk
7 in the Adjutant General's office, shall be paid
8 ———dollars annually; and the clerk in the
9 Auditor's office shall be paid———dollars an-
10 nually. The compensation mentioned shall be
11 paid quarterly from the treasury; and said offi-
12 cers shall discharge their several duties as the
13 law prescribe.

12 2. All acts coming within the purview of this
13 act are hereby repealed.

HOUSE BILL No. 93.

**A BILL TO ALTER PART OF THE DIVISION LINE
BETWEEN THE COUNTIES OF RITCHIE AND
GILMER.**

Be it enacted by the Legislature of West Virginia :

1. The division line between the counties of Ritchie
and Gilmer is hereby so altered as to annex to, and in-
clude within, the county of Ritchie the dwelling house
and curtilage of Elisha L. Snodgrass, and so much ad-
ditional land as may be necessary to straighten, as far
as practicable, the said division line ; but the territory
thereby added to the county of Ritchie shall not exceed
in the aggregate one hundred and fifty acres.

2. The annexation herein provided for shall not be
of force until the Surveyor of the county of Ritchie
shall run and mark the said alteration of the said divi-
sion line, and make three fair plats thereof, each of
which he shall duly certify, and forward one to the
Secretary of the State, another to the Recorder of the
county of Gilmer, and the third to the Recorder of the
county of Ritchie, who shall file and carefully preserve
the same in their respective offices.

3. The account of the said Surveyor for his fees and
expenses incurred under the provisions of this act, shall
be audited by the Board of Supervisors and paid out of
the treasury of the county of Ritchie.

HOUSE BILL No. 94.

A BILL TO ALTER PART OF THE DIVISION LINE BETWEEN THE COUNTIES OF WOOD AND WIRT.

Be it enacted by the Legislature of West Virginia :

1 1. The division line between the counties of Wood and Wirt,
2 running from the Little Kanawha river towards the county of
3 Jackson, is hereby so altered as to extend the same from the
4 Limestone Hill on the top of the ridge, to the line between the
5 counties of Jackson and Wood, making a straight line from
6 the said river to the said line of the county of Jackson ; and
7 so much of the county of Wood as lies to the east of the said
8 extension is hereby annexed to and made part of the county
9 of Wirt.

10 2. The annexation herein provided for shall not be of force
11 until the surveyor of the county of Wirt shall run and
12 mark the said extension, and make three fair plats thereof,
13 each of which he shall duly certify and forward one to the
14 Secretary of the State, another to the recorder of the county
15 of Wood, and the third to the recorder of the county of Wirt,
16 who shall file and carefully preserve the same in their respec-
17 tive offices.

18 3. The account for the said surveyor for his fees and expen-
19 ses incurred under the provisions of this act, shall be audited
20 by the board of supervisors, and paid out of the treasury of
21 the county of Wirt.

HOUSE BILL No. 95.

A BILL TO ALTER PART OF THE DIVISION LINE BETWEEN THE COUNTIES OF TAYLOR AND HARRISON.

Be it enacted by the Legislature of West Virginia:

1 1. The division line between the counties of Taylor and
2 Harrison is hereby so altered as to include within, and make
3 part of, the county of Taylor, the farms of Solomon Frum,
4 George Bailey, Silas P. Bailey and Samuel Bartlett, now in
5 the county of Harrison.

6 2. The alteration herein provided for shall not be of force
7 until the Surveyor of the county of Taylor shall run and mark
8 the new line or lines, and make three fair plats thereof, which
9 he shall duly certify, and forward one to the Secretary of the
10 State, another to the Recorder of the county of Harrison, and
11 the third to the Recorder of the county of Taylor, who shall
12 file and carefully preserve the same in their respective offices.

13 3. The account of the said Surveyor for the fees and ex-
14 penses incurred under the provision of this act, shall be audi-
15 ted by the Board of Supervisors, and paid out of the treasury
16 of the county of Taylor.

HOUSE BILL No. 96.

A BILL TO ALTER PART OF THE DIVISION LINE BETWEEN THE COUNTIES OF RALEIGH AND MERCER.

Be it enacted by the Legislature of West Virginia :

1 1. The division line between the counties of Raleigh and
2 Mercer is hereby so altered as to run as follows, to-wit: Be-
3 ginning at the mouth of Madams creek, at a corner of the
4 counties of Raleigh, Greenbrier, Mercer and Monroe, and run-
5 ning thence up New river with meanders thereof, to the mouth
6 of Big Bluestone run; thence up the same with the meanders
7 thereof, to the mouth of Little Bluestone run and thence with
8 the road up the mountains, passing the residence of Jonathan
9 Lillies and Jacob Manus, to the old line between the counties
10 of Raleigh and Mercer.

11 2. The alteration herein provided for shall not be of force
12 unless the same is ratified by a majority of the votes cast,
13 "For alteration" and "Against alteration," at the first town-
14 ship election to be held in the county of Raleigh, and also by
15 a majority of the votes cast as aforesaid at the first township
16 election to be held in the county of Mercer; nor unless the
17 Surveyor of the county of Raleigh shall run and mark the
18 above described new lines, and make three fair plats there-
19 of, which he shall duly certify, and forward one to the Secre-
20 tary of the State, another to the Recorder of the county of
21 Mercer, and the third to the Recorder of the county of Raleigh,
22 who shall file and carefully preserve the same in their respec-
23 tive offices.

24 3. The account of the said Surveyor for the fees and ex-
25 penses incurred under the provisions of this act, shall be audi-
26 ted by the Board of Supervisors, and paid out of the treasury
27 of the county of Raleigh.

HOUSE BILL No. 97.

A BILL TO CONFIRM THE BOUNDARY LINES OF
THE COUNTY OF CLAY, AND TO CHANGE THE
NAME OF THE COUNTY SEAT THEREOF.

Be it enacted by the Legislature of West Virginia:

1 1. The boundary lines of the county of Clay as es-
2 tablished by an act of the General Assembly of Virgin-
3 ia, entitled "An Act establishing the county of Clay
4 out of parts of Nicholas and Braxton counties," passed
5 March 29, 1858; and so much of the territory late of
6 the county of Kanawha as is included within the said
7 lines, is and shall continue to be part of the county of
8 Clay.

9 2. The name of the county seat of the county of Clay
10 is hereby changed to Henry, by which name it shall
11 hereafter be known and denominated.

HOUSE BILL No. 98.

A BILL TO PROVIDE FOR THE ASSESSMENT OF TAXES.

Be it enacted by the Legislature of West Virginia:

1 1. There shall be elected, as may be prescribed by law, two
2 assessors for each of the following counties, viz: Barbour,
3 Greenbrier, Harrison, Hampshire, Hardy, Kanawha, Lewis, Ma-
4 son, Marion, Marshall, Monongalia, Monroe, Ohio, Preston,
5 Wayne, and Randolph, and one for each of the remaining
6 counties of the State. The term of office shall commence on the
7 first day of January, and for the first term on the first day of
8 January, 1864, and continue for two years unless sooner remov-
9 ed. Each assessor shall reside in the district for which he was
10 elected, and his removal therefrom shall vacate his office.

11 2. In those counties where there may be more than one asses-
12 sor, each shall be for a certain district, the bounds whereof shall
13 be laid off and described by an order of the board of supervisors
14 of the county, and may be changed at any time by said board,
15 provided, that in the laying off or the changing of such districts,
16 no township shall be divided.

17 3. The jurisdiction, powers and duties of an assessor, shall not
18 extend beyond the bounds of his district, except to grant license
19 to exercise a privilege which is not local, and may be exercised
20 in or out of his district as may be prescribed by law.

21 4. Every person elected assessor shall, within thirty days

22 thereafter, and before entering upon the duties of his office, be-
23 fore the board of supervisors for his county, take the several
24 oaths required by law, and give bond with sufficient security in
25 a penalty of five thousand dollars, conditioned for the faithful
26 performance of the duties of his office; which bond shall be
27 made payable to the State of West Virginia, and after being
28 acknowledged before the said board, shall be recorded in the re-
29 corder's office for the said county. If any assessor shall fail to
30 take such oaths and give bond within the time herein prescribed,
31 his office shall be deemed vacant, and it shall be the duty of the
32 board of supervisors to declare the vacancy, and direct an elec-
33 tion. The qualification, unless to fill a vacancy, shall not be
34 construed to invest such assessor with authority to act as such
35 before the time appointed for him to enter upon the discharge of
36 the duties of his office.

37 5. Within thirty days after the bond is given, and the several
38 oaths of office taken, the recorder with whom such bond is di-
39 rected to be filed and recorded, shall transmit a copy thereof,
40 together with a copy of the order of the board of supervisors,
41 showing the qualification of such assessor and acknowledgment
42 of said bond, to the auditor. If any recorder shall fail to per-
43 form this duty a fine shall be imposed upon him of not less than
44 fifty nor more than one hundred dollars.

45 6. The recorder of every county shall annually, in the month
46 of January, make out a list of all deeds for the partition and
47 conveyance of land (except deeds of trust and mortgages to se-

48 cure the payment of debt,) which may have been lodged in the
49 office to be recorded, (although not fully proved) within the year
50 ending on the thirty-first day of December preceding, which
51 list shall state the date of the deed, when admitted to record,
52 names of grantors and grantees, the quantity of the land con-
53 veyed, and a description of the same.

54 7. The clerk of every circuit court shall make out a list of all
55 payments and decrees for the partition or recovery of lands
56 which may have been rendered, and of all lands absolutely de-
57 vised by will which may have been recorded in such court with-
58 in the same year, and the recorder of the county shall also make
59 out a list of all lands devised by will which may have been re-
59 corded in his office within the time aforesaid, which lists shall
60 state the date of the decree, the land which is the subject of the
61 partition, and between whom and in what proportions it is di-
62 vided, and the date of the will containing the devise, when ad-
63 mitted to record, the names of the deviser and devisee, and a
64 description of the land devised.

65 8. Every list mentioned in either of the two preceding sec-
66 tions, shall be delivered by the officer making it to the assessor
67 for his county; or if there be more assessors than one, the clerk
68 or recorder shall deliver such list to one of them, and to the
69 other a copy of so much thereof, at least, as relates to the lands
70 within his district. If any clerk or recorder shall fail for one
71 month after the expiration of the said year, to perform any of
72 the duties required of him by this section, or either of the two

73 next preceding sections, he shall for such failure forfeit fifty dol-
74 lars.

75 9. The secretary of the state shall annually, on or before the
76 first day of January, make out an abstract for each county of all
77 grants issued by him by virtue of warrants from the land office
78 of the commonwealth of Virginia within the said county, which
79 abstract shall be forwarded to the several recorders of the said
80 counties, who shall upon the receipt thereof, as soon thereafter
81 as may be, make out and deliver an attested copy of the same to
82 each of the assessors of his county, and he shall file the original
83 in his office, and the said recorders on failure to perform the du-
84 ties required by this section shall be subject to a like penalty as
85 is provided in the eighth section of this act.

86 10. Any party interested may also procure at his own cost a
87 statement of any such judgment, decree or devise, as is mention-
88 ed in the seventh section, and deliver the same to the proper
89 assessor.

90 11. The assessor shall apply for the official books and papers
91 which his predecessors or the commissioner of the revenue had,
92 to the person in possession thereof, who shall deliver the same
93 on such application; such person failing to do so shall forfeit one
94 hundred dollars.

95 12 The auditor upon being informed that any such books and
96 papers cannot be obtained, may authorize the assessor to pro-
97 cure substitutes therefor. Any recorder or clerk furnishing the
98 same may be paid therefor such fees out of the treasury as he
99 might by law charge an individual for similar services.

100 13. An assessor, unable from sickness or other cause to per-
101 form the duties of his office, may, at his own expense, appoint
102 a deputy, to be approved of by the board of supervisors for his
103 county. Such deputy after taking the proper oaths may dis-
104 charge any of the duties of assessor, and his principal shall be
105 liable for the faithful performance of the same.

106 14. It shall be the duty of the auditor to prepare and fur-
107 nish to the assessors printed forms for the land and property
108 books, and also for lists of taxable subjects required to be fur-
109 nished by the assessors to persons chargeable with taxes, and
110 he shall also by letter or printed circular, give such instruc-
111 tions to said assessors in respect to their duties as to him shall
112 seem judicious and necessary, and if any assessor shall refuse
113 or fail to obey any such instructions, he shall forfeit a sum not
114 less than ten nor more than thirty dollars. The expense of
115 transmitting all such printed forms, lists, and circulars of in-
116 formation, shall be defrayed out of the treasury on the gov-
117 ernor's order.

118 15. The auditor shall communicate any instances of miscon-
119 duct or official neglect of any assessor, or any evidence of in-
120 capacity furnished by anything in the auditor's office, in a let-
121 ter to the clerk of the board of supervisors for the county for
122 which he was elected, which letter the clerk shall lay before
123 the board at its first meeting after it is received.

124 16. Upon any complaint being made of an assessor, by such
125 letter or otherwise, or when the board of supervisors is satisfi-

126 ed that there has been neglect of duty on the part of any as-
127 sessor, it may order a summons to issue to be served by the
128 sheriff of the county, requiring such assessor to appear before
129 the board at the next meeting. And after such summons shall
130 have been served on the assessor, for at twenty days before the
131 return day thereof, the board shall at its meeting to which
132 such summons is returnable, or to which it may be continued,
133 consider whether there has been misconduct or neglect of offi-
134 cial duty by such assessor; and if it shall be of opinion that
135 such cause exists, shall make an order for his removal, and
136 shall forthwith direct an election to fill the vacancy.

137 17. Such changes as may happen within the district of any
138 assessor, shall be noted by him in his land book as follows:

139 18. He shall enter in the said land book and assess the value
140 of all lands in his district appearing by the abstract of the sec-
141 retary of the State, to have been granted and not previously
142 entered. If he shall fail to enter any grant mentioned in the
143 abstract on the first land book made out after the abstract
144 shall have been received by him, he shall for such failure for-
145 feit twenty dollars to the State, and a like sum to the grantee,
146 which shall be recoverable in a separate proceeding.

147 19. Real estate purchased in for the State at a sale for taxes,
148 shall not thereafter be entered in the said books, but the audi-
149 tor shall keep a register thereof. Whenever any real estate so
150 purchased, appears by the auditor's certificate to have been re-
151 deemed, the same shall be replaced in the body of the book, in

152 the name of the owner or his grantee. When real estate is sold
153 for taxes to individuals, the commissioner shall note on his land
154 book the number of acres sold, and to whom, but shall continue
155 the land upon his said book in the name of the former owner
156 until the purchaser obtains a deed therefor.

157 20. The lands appearing on the lists or statements men-
158 tioned in the sixth, seventh and ninth sections of this act, shall
159 be transferred accordingly on the land book and charged to
160 the person to whom the transfer is made.

161 21. When a tract or lot of land becomes the property of dif-
162 ferent owners, in several parcels, the value at which the whole
163 had been assessed, shall be divided by the assessor amongst the
164 several parcels, having regard to the value of each parcel com-
165 pared with that of the whole tract or lot, and the tax upon the
166 whole shall be apportioned accordingly amongst the owners of
167 the several parcels. If any person interested, shall be dissat-
168 isfied with such apportionment, he may apply to the assessor to
169 make a re-assessment, and the assessor shall make the same ac-
170 cordingly to the best of his skill and judgment, after ten days
171 notice of the time thereof, to the parties interested, or to such
172 of them as may be in the county or corporation. Any party
173 may, after like notice, apply to the board of supervisors to re-
174 view the assessors' decision, and it may order his assessment to
175 be corrected. In all cases where the surface of land is held by
176 one person, and the minerals under the surface are held by an-
177 other, the assessor, or assessors, in counties in which any such

178 mineral and surface titles exist, are hereby authorized and re-
179 quired to determine the relative value of each, and to assess
180 the respective owners of any such mineral and surface rights,
181 with the value of their respective interests; provided, that the
182 amounts assessed to both shall be the same as that with which
183 the land would be assessed, were the minerals and surface
184 owned by the same person. Any person feeling himself ag-
185 grieved by the assessment of any such lands, or the minerals
186 therein contained, under this act, shall have the benefit of the
187 remedy heretofore provided for in the division of surface lands.

188 22. Every assessor in making out his land book, shall cor-
189 rect any mistake made in any entry in the land book. But
190 land which has been correctly charged to one person, shall not
191 afterwards be transferred to another without evidence of rec-
192 ord, or furnished as aforesaid, that such transfer is proper, ex-
193 cept as follows:

194 23. When the owner dies intestate, the assessor may ascertain
195 who are the heirs of the intestate, and charge the land to such
196 heirs. Where the owner has devised the land absolutely, the
197 assessor may charge the land to such devisee. If under the
198 will the land is to be sold, the land shall continue charged to
199 the decedent's estate until a transfer thereof is made.

200 24. If any land lying in one county, district or township,
201 be erroneously assessed in another, the assessor on whose book
202 it is erroneously assessed, shall certify the owner's name, and
203 the quantity, description and value of the land, to the proper

204 assessor, who shall enter the same on his book and charge the
205 tax thereon; and the assessor in whose book it was erroneously
206 entered, shall strike the same therefrom, upon being informed
207 of the entry thereof, by the proper assessor.

208 25. Land lying partly in one county and partly in another,
209 shall be entered by the assessor of the county in which the
210 greater part lies; and where land lies partly in one township
211 and partly in another, the assessor shall enter it in the town-
212 ship where the greater part lies, but the entry and payment of
213 taxes in the county or township where any part thereof is sit-
214 uated, shall, for such time, be a discharge of so much of the
215 taxes as may be so charged and paid. And when new build-
216 ings are erected of the value of one hundred dollars or more,
217 upon that part of the land lying in that part of the county in
218 which it is not assessed, the assessor on whose book it is entered
219 shall assess and add the value of such buildings, as in other
220 cases.

221 26. Where land which lies partly in one county and partly
222 in another, is assessed in the county in which the greater part
223 lies, if the owner thereof shall convey that portion (or any
224 part thereof) lying in the county wherein the same is not asses-
225 sed, the assessor of the latter county shall enter upon his land
226 book what is so conveyed, and certify the quantity contained
227 in the part conveyed and its valuation, the quantity contained
228 in the entire tract from which the part conveyed is to be taken,
229 a description of the local situation of the entire tract, and the

230 name of the owner thereof, to the assessor of the county
231 wherein the whole was before assessed, who shall strike the part
232 so conveyed, from his land book, by deducting the quantity
233 thereof and its proportionate value from that of the entire
234 tract.

235 27. Where land lies partly in one assessment district, and
236 partly in another, and is assessed in the district where the
237 greater part lies, if the owner thereof shall convey the lesser
238 portion (or any part thereof,) the assessor for the district where-
239 in such lesser portion lies, shall enter what is so conveyed on
240 his land book in the list for the township where it lies, and
241 shall certify the quantity contained in the part conveyed, and
242 its valuation; the quantity contained in the entire tract from
243 which the part conveyed is to be taken, a description of the
244 local situation of the entire tract, and the name of the owner
245 thereof, to the assessor of the district wherein the whole was
246 before assessed, who shall strike the part so conveyed from his
247 land book, by deducting the quantity thereof and its propor-
248 tionate value from that of the entire tract. And when land
249 lies partly in one township and partly in another, but in the
250 same assessment district, and is assessed in the township where
251 the greater part lies, and the owner thereof conveys the lesser
252 portion (or any part thereof) the assessor for the district shall
253 enter the part so conveyed on his land book in the list for the
254 township wherein it lies, and shall strike the part so conveyed
255 from the list of the township wherein the whole was before as-

256 sessed, by deducting the quantity thereof and its proportion-
257 ate value from that of the entire tract.

257 28. When the assessor shall ascertain that there is any pat-
258 ented land in his district which has not before been entered on
259 his land book, or after heing entered has, for any cause, been
260 omitted for one or more years, he shall make entry thereof and
261 of the name of the owner, shall proceed to make such assess-
262 ment to the best of his judgment, by reference to the assess-
263 ed value of contiguous land similarly situated, and shall
264 charge on the land which he so enters, where the quantity con-
265 tained in the tract exceeds one thousand acres, taxes at the
266 rate imposed by law for each year in which the land was not
267 before entered in such book, from the year eighteen hundred
268 and thirty-two, inclusive, if the patent issued before that time,
269 and if it did not, then from the date of the patent, together
270 with lawful interest on each years' tax. Any assessor failing
271 to make such entry and assessment shall forfeit twenty dollars.

272 29. The preceding section shall not, however, be construed
273 to subject a bone fide purchaser of such land to the arrears of
274 such tax, except from the date of his title thereto.

275 30. Each assessor, before making out his land book, (and
276 when he takes the list of taxable personal property,) shall car-
277 ry with him the book of the preceding year, and the entry of
278 lands charged to any person resident, or having an agent with-
279 in his district, shall be shown to such person or his agent who
280 shall be required to state on oath whether the same be correct-

ly entered; whether any part thereof ought to be transferred to any other person, and if so, to whom, and the nature of the evidence to authorize such transfer; also to state whether any other land within the district ought to be charged to such resident or non-resident, and to describe the same as well as to give a description of any of the lands charged to such resident or non-resident, which may not be correctly entered. And the assessor shall make such use of the information so obtained as he can properly make consistently with the other provisions of this act. Any such resident or agent failing to comply with such requisition shall forfeit fifty dollars. Any assessor failing to comply with this section shall forfeit one hundred dollars.

31. Each assessor, before making out his land book, shall assess the value of any old building omitted for one or more years, and of any building nearly erected upon land on his book, together with interest on the taxes at the rate of six per centum per annum for the omitted years. And where any such building not theretofore assessed, whether old or new, is found to be of the value of one hundred dollars and upwards, (valuing the same as nearly as may be at the same rate at which other buildings in the neighborhood, now valued by the assessors under the previous general assessment,) the value thereof shall be added to the value at which the land was before charged.

32. No new building shall be assessed until so far finished as to be fit for use. But it shall then be assessed whether entirely finished or not, at its value, and at its increased value from

307 year to year on account of further improvements, until com-
308 pleted upon the plan on which it is designed. . .

309 33. Any building which may have been increased in value to
310 one hundred dollars or upwards, by repairs or additions there-
311 to, shall be assessed in the same manner as a new building.

312 34. When from natural decay or other cause, any building
313 which may have been assessed, shall be either wholly destroyed
314 or reduced in value below one hundred dollars, the assessor
315 shall deduct from the charge against the owner the value at
316 which such building may have been assessed. For any failure
317 on the part of the assessor to comply with this or any of the
318 three next preceding sections, he shall forfeit fifty dollars.

319 35. The assessor in assessing the value of manufacturing or
320 other mills, shall ascertain the value of all machinery and fix-
321 tures attached thereto, and include the same in the amount of
322 improvement charged to the owner thereof.

323 36. All real estate used for divine worship, or as public bu-
324 rying-grounds, or belonging to any county, incorporated town
325 or township, and used for public or charitable purposes, and
326 not held or leased out for profit, or belonging to colleges, in-
327 corporated academies and free schools, and used for colleges or
328 school purposes, to any public institution for the education of
329 the deaf and dumb or the blind, all lunatic asylums, to orphan
330 asylums, exclusively to the State, and all such estate used ex-
331 clusively for the safe keeping of fire engines, and for the meet-
332 ing of fire companies, whether owned by a fire company or by

333 a city or town, shall be exempt from taxation ; provided, how-
334 ever, that nothing herein contained shall be construed to ex-
335 empt from taxation any lot or building partially or wholly used
336 as a residence, or for any private purpose.

337 37. The assessor shall place and retain on his land book the
338 assessed value of all improved lots in any city or town, and the
339 value of any buildings thereon, as well as of all unimproved
340 lots in any such city or town.

341 38. The assessor shall make out his land book in such form
343 as the auditor may prescribe, showing in tables the tracts of
344 land, and in separate tables the town lots, with the names of
345 the owners thereof arranged alphabetically, for each township
346 in his district.

347 39. In the table of tracts of land the assessor shall enter each
348 tract separately, and shall set forth in as many separate columns
349 as may be necessary, the name of the person who by himself or
350 his tenant has the freehold in possession, his place of residence,
351 the nature of his estate, whether in fee or for life, the number
352 of acres in the tract, the name of the tract if it has a name,
353 and description of it with reference to contiguous tracts,
354 or to the water-courses, mountains or other places on or near
355 which it lies, the distance and bearing from the court-house,
356 the value of the land per acre, including the value of the land
357 and buildings, the sum included in the value on account of
358 buildings, the amount of tax on the whole tract at the legal
359 rate, and from whom, when and how the owner derived the

360 land, where this is known, with a note and explanation of any
361 alteration made, showing why and upon what authority it was
362 made.

363 40. In the tables of town lots he shall enter separately each
364 lot, and shall set forth in as many separate columns as may be
365 necessary, the name of the person, his residence and estate, as
366 in the tables of tracts of land, charging lots leased for a term
367 of years on ground rent, including all improvements thereon,
368 not the lessee, but to the tenant for life or fee simple owner
369 under whom the lessee holds. The assessor shall set forth in
370 other columns the number of each lot in the town, with the
371 name of the town, if not previously placed in the caption or
372 heading of the table, a description, where the person does not
373 own the whole lot, of the part which he owns, the value of the
374 buildings on the lot, the value of the lot, including buildings,
375 the amount of tax at the legal rate, and like notice of the
376 source of the title, and explanation of alterations, as in the ta-
377 ble of tracts of land.

378 41. All property within this State, and the moneys and cred-
379 its of persons residing therein, whether such moneys and credits
380 be in or out of this State, except such as is hereinafter express-
381 ly exempted or otherwise taxed, shall be entered on the list of
382 taxable property, and be subject to equal and uniform taxation.
383 The word "moneys" shall include not only gold, silver, and
384 copper coins, but bullion and bank notes. The word "credits"
385 shall be construed to mean all contracts for the payment of

386 money or other thing; all claims and demands owing or coming
387 to any person, whether due or not, and whether payable in
388 anything other than money, its present probable value in mo-
389 ney shall be listed.

390 42. All personal property described in this section, and to
391 the extent herein limited, shall be exempt from taxation, that
392 is to say: All public and family libraries: all books, apparatus
393 and furniture belonging to colleges, incorporated academies
394 and free schools, and used for college and school purposes; to
395 the public institutions for the education of the deaf and dumb
396 and the blind; and to the lunatic asylum. And all personal
397 property belonging to orphan asylums, overseers of the poor,
398 and exclusively to the State. All fire engines or other imple-
399 ments for the extinguishment of fires. All agricultural pro-
400 ductions grown directly from the soil during the year previous
401 to the first day of February in any year.

402 43. All other property, moneys, bonds, securities and liqui-
403 dated claims of such persons, not otherwise exempt, shall be
404 listed for taxation.

405 44. Each person of full age and sound mind, not a married
406 woman, shall list the personal property, moneys, contracts and
407 credits in his possession or under his control or care, subject to
408 taxation, and the subject or persons on account of which he is
409 chargeable with taxes or county levies. The property of a mi-
410 nor shall be listed by his guardian; if he has no other guardian,
411 by his father, if living; if not, by his mother, if living; if nei-

412 ther be living, by the person having charge of the property; of
413 a wife, by her husband, if of sound mind; if not, by herself; of
414 a deceased person, idiot or lunatic, by the personal representa-
415 tive or committee; of a person for whom property is held in
416 trust, by the trustee; of a corporation whose assets are in the
417 hands of agents, receivers or factors, by such agent, receiver or
418 factor; of every company, firm, body politic or corporate, by
419 the principal accounting officer, partner or agent thereof; all
420 moneys, bonds or other evidences of debt under the control of
421 any receiver or commissioner, by such receiver or commissioner;
422 and all moneys deposited in any bank to the credit of any suit,
423 by the clerk of the court in which such suit is. Personal prop-
424 erty not situated in the county, city, town or township in which
425 the owner or the person required by this act to list the same
426 for taxation resides, shall be listed by the agent of such owner
427 or other person, in the county, city, town or township where
428 such property is, unless such owner or other person shall cause
429 it to be otherwise listed in such last mentioned county, city,
430 town or township. All bonds, evidences of debt and claims,
431 wherever the debtor may reside, and all moneys shall be listed
432 by the owner thereof, or by the person required by this act to
433 list the same for taxation, or by the agent of such owner or
434 other person having the control and custody of such bonds, ev-
435 idences of debt, claims, contracts and moneys.

436 45. The number of white male inhabitants and free negroes
437 residing in any district on the first day of February in each

438 year, shall be ascertained and classified as follows: Each asses-
 439 sor shall ascertain the number of white male inhabitants in his
 440 district, who have attained the age of twenty-one years, and
 441 who are not exempt from taxation on account of bodily infir-
 442 mities. The number of male free negroes above the age of
 443 twenty-one years, not exempt from taxation on account of bod-
 444 ily infirmities. And herein shall be included all persons and
 445 property removed from one county, city, town or township to
 446 another, between the first day of February and the time the
 447 assessor's books are required by law to be delivered to the col-
 448 lecting officer by the assessor, but persons assessed, and who
 449 have paid their taxes in any county, shall be exonerated in any
 450 other for that year.

451 46. He shall ascertain all the personal property in his dis-
 452 trict on the said first day of February in each year, not exempt
 453 from taxation, and the value thereof; and all moneys, con-
 454 tracts for money or other thing, and all credits, whether in or
 455 out of the State, belonging to each person residing in his dis-
 456 trict, and the value of such credits. And herein shall be in-
 457 cluded all moneys, credits, capital or other thing loaned, used
 458 or employed in business out of the State, by himself, his agent,
 459 or other person for him.

460 47. He shall ascertain from each person residing in his dis-
 461 trict the amount of all solvent bonds and securities other than
 462 those mentioned in the preceeding section, and of all solvent,
 463 liquidated and certain demands and claims, however eviden-

ced, owing and coming to such person, whether due or not, on the first day of February, deducting from the aggregate amount thereof, the amount of all such bonds, securities, claims and demands owing to others from such person as principal debtor, and not as guarantor, endorser, or surety; but in neither case shall unsettled book accounts, which have accrued in a licensed business within the year next preceeding, be included. The aggregate of principal and interest shall constitute the amount of a bond or claim due and payable. The present value, after deducting the legal interest, shall constitute the amount of a bond or claim not yet due and payable, and which bear no interest.

48. He shall ascertain from each person residing in his district, the value of his income during the year next preceding the first day of February, when such income exceeds three hundred dollars, in consideration of the discharge of any office or employment in the service of this State, or any of the United States, or in consideration of the discharge of any office or employment in the service of any corporation created by this or any other State, or in the service of any company, firm or person, except where the service is that of a minister of the gospel or a professor in a theological seminary; and where such salary amounts to more than three hundred dollars, the assessor shall list the whole amount thereof.

49. He shall ascertain the yearly value of all toll bridges and ferries in his district, except such as are by law exempt from

490 taxation. He shall be governed by the actual rent received,
491 where **such** toll bridges and ferries are rented or leased out;
492 otherwise he shall make a just estimate of value.

493 50. He shall ascertain from the proper officers of all incor-
494 porated joint stock companies in his district, except railroad
495 companies, the actual value of their capital, not including that
496 invested in real estate and other property, used, employed or
497 invested in the business for which such companies were re-
498 spectively incorporated; and this shall be held to embrace all
499 moneys on hand, and the aggregate amount of all solvent
500 bonds, securities and liquidated claims owing to such company,
501 after deducting therefrom the amount due from such company
502 to others, according to the provisions of the forty-seventh sec-
503 tion of this act. The real estate and personal property of such
504 company shall be listed and assessed as in other cases. The
505 property exempt from taxation by the charter of any such com-
506 pany, shall not be assessed. All lands held by any such com-
507 pany, beyond the quantity authorized to be held by them un-
508 der their charter, shall be assessed as in other cases.

509 51. He shall ascertain from all persons residing in his dis-
510 trict, the capital invested, used or employed by them in any
511 trade or business, except agriculture, mercantile or manufac-
512 turing, not including therein the assessed value of their real
513 estate, which shall be listed and assessed as in other cases; but
514 in no case shall the personal property, credits and moneys used,
515 acquired or held in such trade or business, be otherwise assess-
516 ed or listed than as such capital.

517 52. He shall ascertain from each person in his district, who
518 acts under the order of any court as receiver or commissioner,
519 the amount of all moneys or other evidences of debt under
520 his control, the right to which may be undecided, and the style
521 of the suit to which such fund belongs; and from the clerk
522 of such court the amount deposited by order of such court in
523 any bank or savings institutions to the credit of any suit in
524 such court, and the style of such suit.

525 53. He shall ascertain from every person residing in his dis-
526 trict the amount of all fees derived by him from any office,
527 calling or profession for which no license is required; where
528 such fees exceed the sum of three hundred dollars, but the
529 amount of such fees (if not paid) shall, if solvent, be listed as
530 part of the certain and liquidated claims of such person, and
531 where such fees amount to more than three hundred dollars in
532 the aggregate, the assessor shall list the whole amount thereof.

533 54. The president, secretary, or principal accounting officer,
534 of every railroad company, whether deriving its corporate
535 powers exclusively from this State or not, shall list for taxation
536 at its true value in money, verified by the oath or affirmation of
537 the officer so listing, all the property, moneys and credits of
538 such company of whatsoever kind held or used in the State.

539 The value of all personal and movable property, moneys and
540 credits shall be added to the stationery and fixed property and
541 real estate, and shall be apportioned by such officer to each
542 county through which the road passes, *pro rata*, in proportion

543. to the fixed property and real estate of the county; and all
544 property so listed shall be subject to and pay the same taxes as
545 other property listed in such county. Said officer shall on or
546 before the first day of April, in each year, make out and return
547 such *pro rata* valuation of the real and personal property, and
548 moneys and credits of such company in the several counties
549 through which such railroad passes, verified as aforesaid, to one
550 of the assessors of each of said counties respectively. If said
551 assessor is of opinion that false or incorrect valuation have been
552 returned, he shall proceed to assess the value of all such prop-
553 erty according to the best information he may be able to ob-
554 tain, in the manner prescribed in section seventy-one of this
555 act.

556 55. Whenever, in any year, the president, secretary or prin-
557 cipal accounting officer of any railroad company, shall fail to
558 make the return required by the preceeding section, in the
559 manner and by the time therein required, it shall be the duty
560 of the respective assessors of each of the several counties
561 through which said road passes, to proceed to ascertain the val-
562 uation of the property of said company within his county,
563 mentioned in the preceding section, and in the manner therein
564 prescribed.

565 56. Every company failing to render the lists and valuations
566 of its property as provided in the fifty-fourth section, shall be
567 fined five hundred dollars. If any such company fail to pay
568 the taxes assessed upon its property as aforesaid, the sheriff or

569 other collecting officer, shall proceed to sell any personal prop-
570 erty of said company, at his discretion, in sufficient quantities
571 to pay such taxes.

572 57. Every agent of any insurance company, incorporated by
573 any other State or government, and every agent of any ex-
574 press company whether incorporated by this State or not, shall
575 return, under oath, to the assessor of the district in which the
576 office or agency of such company may be kept, in the month of
577 February annually, the amount of the receipts of such agency
578 for the year next preceding the first day of said month. If
579 such agency shall not have been in operation one year on the
580 said first day of February, then such return shall be for the
581 time such agency shall have been in operation. The amount so
582 returned by such agent shall be entered by the assessor on the
583 tax list for the proper county and township, and be subject to
584 the same rate of taxation for all purposes that other personal
585 property is subject to at the place where located. All real and
586 personal property belonging to such agency, shall be listed and
587 assessed as in other cases. Any agent failing to make the re-
588 turn required by this section shall forfeit one hundred dollars.

589 58. Every person that shall own or hold in his possession
590 subject to his control, any personal property within this State,
591 which shall have been purchased with a view of being sold at
592 an advanced price or profit, or which shall have been consigned
593 to him for the purpose of being so sold, shall be held to be a
594 merchant, and whenever he shall be required, according to the

575 provisions of this act, to make out and deliver to the assessor a
596 statement of his personal property, he shall make and deliver
597 a separate statement embracing the value of such personal
598 property as appertains to his business as a merchant, and in
599 estimating the value thereof, he shall take the average value
600 of all such articles of personal property, which the said mer-
601 chant shall have had from time to time in his possession or un-
602 der his control, during the year next preceding the time of
603 making such statements, if he shall have been so long engaged
604 in such business, and if not so long, then during the period
605 that he shall have been so engaged; and the average value of
606 such property shall be ascertained, as near as may be, by esti-
607 mating the amount in value on hand in each month of the next
608 preceding year in which the person making such statement shall
609 have been engaged in business, adding together such amounts
610 and dividing the aggregate amount thereof by the number of
611 months that the person making the statement may have been
612 in business during the preceding year; provided, that no con-
613 signee shall be required to list for taxation the value of any
614 property consigned to him for the purpose of being stored or
615 forwarded, if he shall have no interest in such property, nor in
616 any profit to be derived from its sale. The word "person," as
617 used in this and the succeeding sections, shall be held to mean
618 and include "company" and "firm."

619 59. Every person who shall purchase, receive or hold in his
620 possession, personal property of any description, for the pur-

pose of adding to the value thereof, by any process of manufacturing, refining, rectifying, or by the combination of different materials, with a view of making a gain or profit by so doing, shall be held to be a manufacturer; and he shall, when he is required according to the provisions of this act, to make out and deliver to the assessor a statement of his other personal property subject to taxation, make and deliver to the assessor a separate statement embracing the estimated value, as provided in the preceding section, of all articles purchased, received or otherwise held, for the purpose of being used in whole or in part, in any process or operation of manufacturing, combining, rectifying or refining, which, from time to time, he shall have had on hand during the year next previous to the time of making such statement, if so long he shall have been engaged in such manufacturing business; and if not, then during the time he shall have been so engaged.

60. Every person owning a manufacturing establishment of any kind, and every manufacturer, shall list as a part of his manufacturer's stock the value of all engines and machinery of every description, used or designed to be used, in any process of refining or manufacturing (except such fixtures as may be attached to the freehold and assessed and taxed as such), including all tools and implements of every kind used or designed to be used for the aforesaid purpose.

61. Every person intending to engage in the business of merchandizing or manufacturing in any district in this State,

647 after the first day of February in any year, shall before com-
648 mencing such business, report under oath, to the assessor of
649 such district, the probable amount of the average value of the
650 personal property intended by him to be employed in such bu-
651 siness until the last day of January thereafter.

652 62. It shall be the duty of the assessor to whom such report
653 may be made, immediately to report to the collecting officer of
654 his county, the name of the person or persons so intending to
655 engage in the business of merchandizing or manufacturing, his
656 place of business, the amount of the average value of the per-
657 sonal property intended by him to be employed in such busi-
658 ness until the last day of January thereafter, and the amount
659 of tax due upon the same respectively for State, county and
660 township purposes, which tax the collecting officer shall pro-
661 ceed at once to collect, and give to the person or persons afore-
662 said, a receipt therefor, upon the production of which receipt
663 to the assessor, he shall deliver to such person or persons, a
664 certificate to the following effect: "I, A B, assessor of — dis-
665 trict in the county of — do hereby certify that — of
666 — has (or have) been assessed with and paid the lawful
667 tax on his (or their) personal property intended to be employed
668 in the business of —, for the year ending the thirty-first
669 day of January, 18—," which certificate signed by said assessor
670 shall entitle the party holding it, to transact such business.

671 63. Each assessor shall report to the auditor monthly after the
672 first day of February in each year, lists of the assessments so

673 made by him as aforesaid, stating the name of the person or firm
674 so intending to engage in the business of merchandizing or
675 manufacturing, the place of business, the amount of the average
676 value of the personal property intended to be employed in such
677 business, and the amount of State tax assessed thereupon until
678 the last day of January thereafter, and the name of the collect-
679 ing officer to whom the same was paid. The assessor shall in
680 like manner return to the treasurer of his county similar lists,
681 showing the amount of taxes due thereon for county and town-
682 ship purposes. Any assessor failing to discharge any of the du-
683 ties required of him by the three preceding sections, shall for-
684 feit one hundred dollars.

685 64. If any person shall after the first day of February, in any
686 year, engage in the business of merchandizing or manufactur-
687 ing within the State without having first obtained the certifi-
688 cate of the assessor of the district in which he intends to prose-
689 cute such business, as is required by the sixty-second section
690 of this act, shall be fined not less than one hundred nor more
691 than five hundred dollars.

692 65. Each assessor shall begin, annually, on the first day of
693 February, and proceed without delay to ascertain all the per-
694 sons and property, on that day, in his district subjebt to taxes
695 and county and township levies, and otherwise to discharge the
696 duties prescribed by this act.

697 66. Each assessor shall call upon every person in his district
698 required by this act to give in a list of property, moneys, cred-

699 its, or other subjects of taxation, and the value thereof, or of
700 the persons with respect to which he is chargeable with county
701 levies, for a list thereof; and may apply to any officer or agent
702 of a company, except where otherwise directed in the act, to
703 any person interested therein; and shall administer an oath to
704 any person to make true answers to such questions as he may
705 ask him in relation to any matter about which the assessor is
706 authorized to inquire. An assessor failing to make any call or
707 administer the oath required by this section, shall forfeit fifty
708 dollars.

709 67. The assessor shall also ascertain and assess the value of
710 all property listed as aforesaid; and if in any case a person
711 shall consider himself aggrieved by the valuation of the assessor,
712 such person and the assessor, respectively, shall choose two
713 discreet voters, to whom shall be referred the matter of con-
714 troversy, and their decision, or that of an umpire chosen by
715 them, shall be final. Each list with the valuations of property
716 annexed, shall be read over by the assessor to the person from
717 whom it is obtained, or on whose information it is made out,
718 and shall then be corrected in such respects as may be neces-
719 sary.

720 68. The assessor shall endeavor, by asking proper questions and
721 obtaining answers thereto, to have in such lists a correct and
722 full statement of the persons and the personal property, and
723 the value thereof, in his district subject to taxation or county
724 and township levies, which were in the possession or care of

725 each person in such district on the first day of February, and
726 of all the other subjects before mentioned, on account of which
727 any person or company in his district was then chargeable.
728 The answers to the assessor's questions shall always be on oath.
729 An assessor failing to administer such oath, unless the person
730 refuse to take it, shall forfeit fifty dollars.

731 69. If any person shall desire it, the assessor shall furnish or
732 cause to be furnished him proper forms of such lists and valu-
733 ations, and such persons shall within ten days thereafter make
734 out and deliver to the assessor, or deposit with the clerk of the
735 board of supervisors, statements of all property, moneys, con-
736 tracts and credits which such person is required by this act to
737 list, and of all subjects and persons on account of which he is
738 chargeable with taxes or county and township levies. He
739 shall annex, in the form prescribed by the assessor, valuations
740 of the property so listed; and shall take and subscribe an oath,
741 to be appended to such statement, to the following effect, viz:
742 "I do solemnly swear (or affirm) that to the best of my knowl-
743 edge and belief, the annexed statement contain accurate, full
744 and complete lists of all property, moneys and credits, whether
745 the same are in or out of the state, which I am required to list,
746 and of all subjects and persons on account of whom I am
747 chargeable with taxes or county or township levies, and that
748 in my opinion the valuations of property listed are not below
749 the fair cash value thereof. So help me God." Which oath
750 may be administered by the assessor or any other officer au-

751 thorized by law to administer an oath ; and if any person be ab-
752 sent from his residence at the time the assessor calls, (and there
753 be no person on the premises authorized to act for such per-
754 son,) the assessor shall leave, or cause to be left for such person
755 at his residence, with some white member of his family over the
756 age of sixteen years, or if there be no such white person on the
757 premises, shall otherwise cause to be delivered to such person
758 proper forms to enable him to make out the statements aforesaid
759 with the form of the oath aforesaid appended thereto ; and it shall
760 be the duty of such person, within ten days thereafter, to make
761 out and deliver to the assessor, or deposit with the clerk of the
762 board of supervisors, such lists, with the valuations of property
763 annexed, verified by affidavit, as is hereinbefore required ; but
764 any such person desiring the forms to be furnished to him,
765 as aforesaid, may be released from the obligations of valuing the
766 property listed as aforesaid, by exhibiting the same to the as-
767 sessor, who shall thereupon assess the value thereof ; and any
768 such person who is absent when the assessor calls at his resi-
769 dence, may decline to include a valuation of his property in
770 the statements required to be delivered or deposited as afore-
771 said ; and in such case the assessor shall ascertain the value of
772 such property, and if the assessor is not satisfied with the val-
773 uation of the property made by any such person, he may adopt
774 what he deems a fair and proper valuation thereof ; and in case
775 any such person shall consider himself agrieved by such valu-
776 ation, the controversy shall be decided in the manner pre-
777 scribed in the sixty-seventh section of this act.

778 70. This act shall not be construed to require any person to
779 furnish, or the assessor to take, a list of the articles of such
780 person's household and kitchen furniture, other than those
781 specified by this act, but only the aggregate value thereof.

782 71. If any person shall fail to furnish a list of the subjects
783 of taxation and county and township levies required by this
784 act, and a valuation of the property listed, the assessor shall
785 proceed to list the same, and assess the value thereof, on the
786 best information he can obtain; and to that end may examine
787 any person on oath, and whether such person fail to furnish
788 such list or not, the assessor may call for any proper information
789 in possession of any officer of this State, who shall furnish the
790 same to him.

791 72. If any person, after being furnished with the proper
792 forms as aforesaid, shall fail within the time mentioned in this
793 act, to deliver or deposit the lists in the manner prescribed by
794 this act, he shall forfeit ten dollars. If any person shall refuse
795 to exhibit to the assessor any property listed, or required by
796 this act to be listed by him in order that a fair valuation there-
797 of may be assessed, he shall pay a fine of not less than twenty
798 nor more than one hundred dollars. Any person failing to
799 comply with this section shall be noted at the end of the as-
800 sessor's property book, or be otherwise specially reported by
801 the assessor to the auditor.

802 73. From the lists procured as aforesaid, the assessor for each
803 district shall make accurate statements in the form to be pre-

804 scribed by the auditor, which shall truly and distinctly set
 805 forth: The number of white male inhabitants who have at-
 806 tained the age of twenty-one years, except those exempted from
 807 taxation on account of bodily infirmity—the number of male
 808 free colored inhabitants over the age of twenty-one years, ex-
 809 cept those exempt from taxation on account of bodily infirmi-
 810 ties—the number of slaves, and the value thereof, the number
 811 of horses, mules, asses, and jennets, and the value thereof—the
 812 number of cattle and the value thereof—the number of sheep
 813 and the value thereof—the number of hogs and the value there-
 814 of—the aggregate value of all household and kitchen furniture,
 815 the number of pleasure carriages, stage coaches, Jersey wagons,
 816 carry-alls, gigs, buggies, wagons, and vehicles of like kind, and
 817 the value thereof, not including those taxed as part of the
 818 stock of a merchant or manufacturer, the number of watches and
 819 the value thereof; not including those taxed as part of the
 820 stock of a merchant or manufacturer, the number of piano
 821 fortes, melodeons, and harps, and the value thereof; not inclu-
 822 ding those taxed as part of the stock of a merchant or manu-
 823 facturer—all gold and silver plate, plated ware, and jewelry,
 824 and the value thereof; not including any such articles taxed as
 825 part of the stock of a merchant or manufacturer—the aggre-
 826 gate value of all monies, solvent bonds, contracts for money or
 827 other thing, securities and liquidated claims belonging to any
 828 joint stock company—amount of income from salary and fees,
 829 the yearly rent or value of all toll bridges or ferries—the

830 amount of capital invested, used or employed in any trade or
 831 business except agriculture, mercantile, manufacturing, or any
 832 incorporated joint stock company, excluding the assessed value
 833 of real estate; the amount of moneys, bonds, contracts or oth-
 834 evidence of debt under the contract of any court receiver or
 835 commissioner; the *pro rata* valuation of the real and personal
 836 property, moneys and credits within the county of railroad
 837 companies; the amount of the gross receipts of the agencies of
 838 insurance and express companies; the amount of the average
 839 value of the personal property required to be listed by a mer-
 840 chant; the amount of the average value of the material and
 841 manufactured articles required to be listed by a manufacturer;
 842 all other articles of personal property not exempt from taxa-
 843 tion, and the value thereof.

844 74. If an assessor shall discover, in making up his land and
 845 property books, that any taxes or levies have been omitted for
 846 any former year, he shall enter therein such omitted taxes or
 847 levies, with lawful interest thereon.

848 75. Each assessor shall make a book containing the names of
 849 the owners of property, and other persons taxed or subject to
 850 levies, alphabetically arranged, by townships, and giving infor-
 851 mation in such form as the auditor may prescribe, as to all
 852 persons and subjects on which taxes may be assessed. Opposite
 853 the name of each person shall be extended the whole amount
 854 of public tax due from him.

855 76. He shall also add up the columns of figures on each page,

856 so as to show at the bottom of each, the total aggregate of each
857 column, and number of articles and persons subject to taxa-
858 tion, with the amount of public tax due on everything con-
859 tained in such page; and at the end of each book he shall enter
860 the sums from the bottoms of the respective pages, by reference
861 thereto, so as to present at one view the various species and
862 total number of the subjects of taxation within his district and
863 each township thereof, and the total amount of the revenue
864 arising therefrom.

865 77. The lands of any decedent shall be charged to his es-
866 tate, until it can be properly charged to the heir, devisee, or
867 grantee. And the personal property of the decedent shall be
868 likewise charged to his estate until the same be disposed of.
869 While either continues charged to the estate, the personal
870 property shall be liable for the tax on all so charged, and sub-
871 ject to distress or other lawful process, for the recovery of the
872 same. Any assets in the hands of the personal representative
873 of the decedent shall be likewise liable therefor.

874 78. The assessor shall make a particular report on oath to
875 the board of supervisors of his county, of all his own property
876 subject to taxes or levies, showing the whole amount charge-
877 able to him therefor. On his book his property shall be en-
878 tered, and taxes and levies charged to him in like manner as to
879 any other person. For failing to perform any duty required
880 by this section, he shall forfeit one hundred dollars.

881 79. If in any case in which, in consequence of their being no

882 assessor for a former year, or from any other cause, no book
883 was made out of the land tax, or the tax on personal property,
884 or those subject to levy in any district for that year, the asses-
885 sor for such district shall proceed to make out books for such
886 year, according to the rate of tax or levy which then existed,
887 as well as books for the current year. The like proceedings
888 shall be had with and under the books of such former year as
889 with those of the current year, and the sums therein charged
890 shall be collected and accounted for in like manner.

891 80. The original of the personal property book shall be re-
892 tained by the assessor so long as he continues in office, and then
893 be delivered to his successor. If he fail herein, or if he fail to
894 make the copies required by the next succeeding section, he
895 shall forfeit fifty dollars.

896 81. The assessor shall make three copies of the personal
897 property book, and when the same shall be completed, he shall,
898 with such assistance as may be necessary, compare the same
899 with the lists taken from individuals, and examine the same in
900 such other way as the records of the office of the recorder of
901 his county and his own information will enable him to do; and
902 shall correct such errors as may be found to exist upon such
903 comparison and examination, in such manner that the entries
904 of the lists, the additions, proofs and recapitulations in each of
905 such books shall be both correct and alike in words and figures.

906 82. As soon as such comparison and examination shall have
907 been completed, the assessor shall make and subscribe the fol-

908 lowing oath, at the foot of each of the three copies of the per-
909 sonal property book, "I, A B, assessor for the county of ———,
910 do swear, that in making out the foregoing book, I have to the
911 best of my knowledge and ability, pursued the laws prescri-
912 bing the duties of an assessor, and that I have faithfully and
913 carefully compared and examined this book, as required by the
914 eighty-first section of the act of the legislature for the assess-
915 ment of taxes, and that I believe the entries of the lists, the
916 additions, proofs and recapitulations are correct, and that the
917 same is alike in words and figures to the two other copies of
918 the personal property book made by me for my district in this
919 year." And the justices (or other officer) before whom the
920 oath is taken, shall annex thereto the following certificate:
921 "Sworn to before me me, C D a ——— for the county of ———,
922 on the ——— day of ———," which certificate shall be subscri-
923 bed by the officer administering the oath.

924 83. It shall be the duty of each assessor who may first exer-
925 cise the duties of his office within any district under the pro-
926 visions of this act to make out a land book embracing all the
927 lands and town lots within such district, compiled from the
928 land book delivered to him by his predecessor, and from such
929 other sources of information as may be within his reach, in
930 which book each tract of land and town lot in each township
931 within such district shall be charged alphabetically in the
932 name of the owner thereof, in the township in which it lies (or
933 the greater part thereof.) In the form of said land book the

934 assessor shall be governed by the requirements of the thirty-
935 eighth, thirty-ninth and fortieth sections of this act, and shall
936 be paid such reasonable compensation for making out the same
937 as the board of supervisors of the county may deem just, not
938 exceeding for any one district the sum of ——— dollars, to be
939 levied for by said board and paid out of the county levy of the
940 year in which said book may be made.

941 84. The land book required to be made by the preceding
942 section, shall when completed, constitute the original land book
943 for the district, and shall be retained by the assessor so long as
944 he continues in office, and then be delivered by him to his suc-
945 cessor. If any assessor shall fail to make such original land
946 book as is required by the next preceding section, he shall for-
947 feit one hundred dollars.

948 85. The assessor shall also make three fair copies of his land
949 book, and shall make a like disposition of the original thereof,
950 as of the personal property book required by section eighty of
951 this act, and if he fail so to do, or to make the copies required
952 by this section, he shall be subject to a like penalty as provi-
953 ded for in section eighty of this act.

954 86. When the three copies of the land book shall have been
955 made by the assessor, as required by the preceeding section, the
956 assessor shall, with such assistance as may be necessary, com-
957 pare each copy thereof with the original land book; with the
958 records of the recorder's office, when necessary, and with such
959 transcripts, abstracts or statement from the records of other

960 offices as may be in his possession, relating thereto. He shall
 961 correct such errors as may be found to exist upon such com-
 962 parison, so that the entries, additions and recapitulations in
 963 each of said books, shall be both correct and alike in words
 964 and figures.

965 87. As soon as such comparisons and corrections shall have
 966 been completed, the assessor shall make and subscribe the fol-
 967 lowing oath at the foot of each of the three copies of his land
 968 book: "I, A B, assessor for the county of ———, do swear that
 969 in making out the foregoing book, I have to the best of my
 970 knowledge and ability, pursued the laws prescribing the duties
 971 of an assessor, and that I have faithfully discharged the duties
 972 required of me in assessing improvements upon lands, and that
 973 I have faithfully and carefully compared and corrected said
 974 books as required by law, and that I believe the entries, addi-
 975 tions and recapitulations are correct and alike the other two
 976 copies of the land book made by me within my district in this
 977 present year." And the justice or other officer before whom
 978 the oath is taken, shall annex thereto the following certificate:
 979 "Sworn to before me, C D, a ——— for the county of ———,
 980 on the ——— day of ———," which certificate shall be subscri-
 981 bed by the justice or other officer making it.

982 88. After the land book and the book of personal property
 983 are completed, compared and corrected and certified as re-
 984 quired by sections ——— and ——— of this act, the assessor
 985 shall, on or before the ——— day of ——— next ensuing,

986 deliver one copy of the land book and one copy of book of per-
987 sonal property to the clerk of the board of supervisors for the
988 county, to be by such clerk carefull preserved amongst the re-
989 cords of his office, free for the inspection of any person ; and a
990 copy of either, or any portion thereof, may be made by or had
991 at the charge of any person desiring the same. And such
992 copies of the land book and the book of personal property pre-
993 served by the clerk, shall also serve for laying the county levy.

994 89. The assessor shall on or before the deliver day of one
995 copy of the land book and one copy of the book of personal pro-
996 perty lawfully certified as required by this act, to the sheriff
997 or other officer authorized to collect the taxes assessed there-
998 in, and they shall be his guide in collecting the same.

999 90. The assessor shall on or before the — day of —, trans-
1000 mit to the auditor one copy of the land book and one copy of the
1001 book of personal property, certified as required by this act,
1002 accompanied with the certificate of the assessor, stating that
1003 he has delivered a duplicate thereof to the sheriff or other
1004 collecting officer for his county, and the time of the delivery.
1005 The copies so transmitted shall be a guide for the auditor to
1006 settle by with such sheriff or other officer. They shall be ad-
1007 mitted as evidence in any proceeding for judgment against
1008 such sheriff or other officer on account of the taxes with which
1009 he is chargeable.

1010 91. The assessor may require from the clerk of the board of
1011 supervisors, sheriff, (or other officer,) and auditor, a receipt or

1012 acknowledgment in writing of the delivery of the said books
1013 to them respectively.

1014 92. If any assessor shall knowingly make a false or erroneous
1015 entry on any of his books, he shall for every such offence for-
1016 feit two hundred dollars.

1017 93. If the duty prescribed by sections eighty-eight, eighty-
1018 nine and ninety shall not be performed as therein required,
1019 the assessor failing to perform any of these duties, sha'll, for
1020 such failure, pay a fine of not less than one hundred nor more
1021 than five hundred dollars. And moreover, the auditor shall
1022 suspend the payment of his compensation.

1023 94. If an assessor shall, either in his land book or his book
1024 of personal property, charge or extend in any case a less tax
1025 than the law requires, the auditor shall deduct the amount
1026 omitted to be charged or extended from the compensation of
1027 the assessor.

1028 95. Each assessor shall be entitled to the following fees:
1029 For making an entry and assessment under the twenty-eighth
1030 section of any parcel of land, one dollar for every such parcel,
1031 to be paid by the owner; for making an assessment, when re-
1032 quested by any owner, of any part of the land, under the
1033 twenty-first section, one dollar, for which the parties amongst
1034 whom the land is divided shall be jointly and severally liable,
1035 except where the assessor's proceedings are confirmed by the
1036 board of supervisors, in which case the party complaining shall
1037 pay the assessor's fee, in addition to any costs which may be

1038 incurred in consequence of the application to the board of
 1039 supervisors; for making an entry transferring lands, before
 1040 charged to one person, unto another, seventy-five cents, which
 1041 shall be charged to the person to whom the transfer is made,
 1042 and be a compensation for all the tracts in the assessor's dis-
 1043 trict conveyed by the same deed; for an entry of any grant ac-
 1044 cording to the eighteenth section, a fee of twenty-five cents
 1045 from the grantee, and fifty cents from him for assessing the
 1046 land granted.

1047 96. The assessors may make out tickets for their fees, and
 1048 place them in the hands of a sheriff or other officer to be col-
 1049 lected and accounted for in the same manner that clerk's fees
 1050 are collected and accounted for. The said assessor shall be
 1051 subject to the same penalties as clerks of courts for issuing
 1052 tickets wrongfully.

1053 97. Every assessor shall be entitled to receive in consider-
 1054 ation of his services, to be paid on or before the first day of
 1055 September, out of the treasury, upon the warrant of the audi-
 1056 tor, a commission of two and one-half per centum on the
 1057 amount of taxes lawfully assessed by him on persons and prop-
 1058 erty within the preceding twelve months. But where taxes
 1059 on persons and property assessed in any district in a county
 1060 exceed twenty thousand dollars, the commission allowed on
 1061 the excess shall be only one and a half per centum; and where
 1062 the said taxes assessed in any district in a city or town exceed

1063 sixteen thousand dollars, the commission allowed on the ex-
1064 cess shall be one per centum.

1065 98. The preceeding section shall not have the effect to re-
1066 duce the compensation to each of the assessors of the counties
1067 of Gilmer, Pocahontas, Pendleton, Putnam, Raleigh, Ritchie,
1068 Tyler, Upshur and Wirt, below the sum of two hundred dol-
1069 lars. And the allowance to any assessor of any county not
1070 mentioned in this section, now existing or which may be here-
1071 after created, shall at the election of the assessor be the com-
1072 missions allowed in the next preceding section, or a specific al-
1073 lowance of one hundred and fifty dollars. The auditor shall
1074 also pay to the several assessors all postage advanced by them
1075 in the transmission of their books or any correspondence
1076 touching the duties of their office, and a fee of three cents for
1077 each birth and death registered and returned by him.

1078 99. The said compensation hereby allowed to an assesor,
1079 shall be denied, unless he has punctually performed his duties
1080 in reference to the listing of births aud deaths, to the assess-
1081 ment of property and license, and made all the rsports re-
1082 quired, within the time prescribed by law, or can show to the
1083 satisfaction of the auditor, a strong and sufficient reason for his
1084 delay. In every such case the auditor may settle with such
1085 assessor for his services, upon equitable princples, and shall
1086 report to the Legislature every such case, his reasons for ex-
1087 cusing the same, and his equitable settlement thereof.

1088 100. Where, however, any assessor makes out books for a

1089 former year, such compensation may be allowed him, in addi-
1090 tion to what he is entitled to for his services during the cur-
1091 rent year, as he would have received in a former year, had he
1092 then been elected and performed the duties of assessor.

1093 101. When one assessor begins in any year, and dies or is
1094 removed before the services to be rendered by the assessor in
1095 that year are fully performed, in consequence whereof anoth-
1096 er is elected who completes the same, the sum to be paid for
1097 the whole services of the assessor in that year, shall be ap-
1098 portioned between the assessor last elected and the former,
1099 according to the services by them respectively performed. If,
1100 however, in consequence of any failure to deliver up books or
1101 papers which the former had, the latter has to proceed to take
1102 the list of taxable property, and do all that he would have had
1103 to do in case there had been no previous assessor that year,
1104 then he shall receive all the compensation for the said year.

1105 102. After the assessor shall have verified and delivered the
1106 land book or the books of personal property, no alteration
1107 shall be made in either by him, effecting the taxes of that
1108 year.

1109 103. But any person aggrieved by any entry in either book,
1110 or with any assessment of a license tax, may within one year
1111 after the date of the verification, where the entry is in either
1112 book, and within one year from the assessment of said license
1113 tax, apply for relief to the board of supervisors of the county
1114 where the assessor gave bond and qualified. The prosecuting

1115 attorney for the county shall defend the application; and no
1116 order made in favor of the applicant shall have any validity
1117 unless it be stated on the face thereof, that such attorney did
1118 did so defend it.

1119 104. If the board of supervisors be satisfied that the
1120 applicant is erroneously charged on such book or so assess-
1121 ed with any taxes on licenses, it shall certify the facts upon
1122 which it grants relief, and shall order that he be exonerated
1123 from the payment of so much as is erroneously charged, if not
1124 already paid, and if paid, that it be refunded to him.

1125 105. Such order delivered to the sheiff, or other collecting
1126 officer, shall restrain him from collecting so much as is thus
1127 erroneously charged, or if the same has already been collected,
1128 shall compel him to refund the money, if such officer has not
1129 already paid it into the treasury; and in either way it shall
1130 be a sufficient voucher to entitle the officer to a credit for so
1131 much in his settlement with the auditor.

1132 106. If what was erroneously charged has been paid into
1133 the treasury, the order of the board of supervisors, attested
1134 by its clerk, shall entitle the claimant to a warrant on the
1135 treasury, for the amount thereof; provided, that application
1136 for the same be made to the auditor within two years after
1137 the date of the assessor's verification or such assessment of the
1138 license tax.

1139 107. If from the statement of facts or other evidence, the
1140 auditor shall be of opinion that the order of the board of su-

1141 perversors granting redress, is erroneous, he may advise a su-
1142 persedeas or appeal to the circuit court of the county having
1143 jurisdiction over the county in which the order was made.
1144 Such appeal or supersedeas shall be granted as a matter of
1145 right, and shall be prosecuted by the prosecuting attorney for
1146 the county. The circuit court upon the facts stated, and upon
1147 such other evidence as either party may offer, shall affirm or
1148 reverse the order of exoneration, and shall make such order
1149 thereupon for the collection of the taxes or otherwise, as such
1150 court may consider proper. The appeal or supersedeas shall
1151 be tried in a summary way without pleadings in writing. No
1152 costs shall be awarded by the court, or paid by the State,
1153 about such appeal or supersedeas, unless the court in its dis-
1154 cretion shall give judgment for costs against the assessor who
1155 made the erroneous assessment.

1156 108. Any person desiring to have any tax on real property,
1157 which he or any person from whom he may have derived title,
1158 may have been, or may hereafter be erroneously or inequita-
1159 bly charged, and which may have been, or shall be returned
1160 delinquent for the non-payment thereof, released or refunded,
1161 may within five years after such property has been so charged,
1162 file with the auditor a declaration in writing, verified by affi-
1163 davit, setting forth the facts upon which he claims relief; and
1164 the said auditor shall grant such relief as upon the facts prop-
1165 erly proven before him, shall appear to be just and equitable.
1166 The said auditor shall in his annual report make an accurate

1167 statement of all cases upon which he may have acted under
1168 this act, and the grounds upon which he may have granted or
1169 refused relief.

1170 109. It shall be the duty of every assessor to furnish the
1171 prosecuting attorney for the county, a list of every violation
1172 of the revenue laws committed by any person other than
1173 himself, showing the nature and character of each violation.
1174 And it shall be the duty of each attorney to deliver such list
1175 to the foreman of the grand jury, who shall treat it as having
1176 been specially delivered in charge to the grand jury. The
1177 said foreman, after the grand jury is discharged, shall return
1178 such list to the clerk of the court, to be preserved and filed
1179 by him in his office. It shall also be the duty of the circuit
1180 court specially to charge the grand juries to inquire into all
1181 violations of the revenue laws by the assessors.

1182 110. Any action or motion for the recovery of any fine or
1183 forfeiture prescribed by this act, against any assessor, clerk or
1184 recorder, may be instituted or made by the auditor in the cir-
1185 cuit court, at the seat of government, according to the second
1186 section of the forty-third chapter of the Code of Virginia, or
1187 any law in force in relation thereto.

1188 111. All property not expressly exempted from taxation,
1189 shall be ascertained in the manner prescribed in this act, and
1190 shall be subject to taxation.

1191 112. Chapter thirty-five of the Code of Virginia of the edi-
1192 tion of 1860, is hereby repealed.

HOUSE BILL No. 99.

A BILL TO ALTER PART OF THE DIVISION LINE BETWEEN THE COUNTIES OF WIRT AND RITCHIE.

Be it enacted by the Legislature of West Virginia:

1 1. The division line between the counties of Wirt and
2 Ritchie is hereby so altered as to run as follows, to wit: Be-
3 ginning at a corner therein, at or near the mouth of Big Is-
4 land Run, on Hughes river, and running thence, a straight
5 course to another corner therein, at or near the mouth of the
6 Laurel Fork of Goose creek; and so much of the county of
7 Ritchie as lies between the above described line and the line
8 hereby altered, is annexed to and made part of the county of
9 Wirt.

10 2. The alteration and annexation herein provided for, shall
11 not be of force until the surveyor of the county of Wirt shall
12 run and mark the above described line, and make three fair
13 plats thereof, which he shall duly certify, and forward one to
14 the Secretary of the State, another to the Recorder of the
15 county of Ritchie, and the third to the Recorder of the county
16 of Wirt, who shall file and carefully preserve the same in their
17 respective offices.

18 3. The account of the said surveyor for the fees and expen-
19 ses incurred under the provisions of this act, shall be audited
20 by the board of supervisors, and paid out of the treasury of
21 the county of Wirt.

HOUSE BILL No. 100.

A BILL TO ALTER PART OF THE DIVISION LINES BETWEEN THE COUNTY OF WEBSTER AND THE COUNTIES OF NICHOLAS AND GREENBRIER.

Be it enacted by the Legislature of West Virginia :

1 1. The division lines between the county of Webster and the
2 counties of Nicholas and Greenbrier, are hereby altered so as
3 to run as follows, to-wit : Beginning at a corner of the coun-
4 ties of Webster and Nicholas, at or near the mouth of Skiles
5 creek on Big Birch river, and running thence with a line of the
6 two counties last named, and an extension thereof, a straight
7 course to the mouth of Stroud's creek on Gauley river ; thence
8 to a corner now of the counties of Nicholas and Greenbrier,
9 on or near Cranberry river, and thence a straight course to a
10 corner now of the counties of Greenbrier and Pocahontas, on
11 or near Gauley river ; and so much of the counties of Nicholas
12 and Greenbrier as is included within the said lines hereby an-
13 nexed to and made part of the county of Webster.

14 2. The alteration and annexation herein provided for shall
15 not be of force unless the same are ratified by a majority of
16 the votes cast "For alteration," and "Against alteration," at
17 an election to be held in the county of Webster, and also in
18 the county of Nicholas and the county of Greenbrier, on the
19 day of the first township election to be held in each ; nor un-

20 less the Surveyor of the county of Webster shall run and mark
21 the new lines above described and make three fair plats there-
22 of, which he shall duly certify, and forward one to the Secre-
23 tary of the State, and one each to the Recorders of the coun-
24 ties of Webster, Nicholas and Greenbrier, who shall file and
25 carefully preserve the same in their respective offices.

26 3. The account of the said Surveyor for the fees and ex-
27 penses incurred under the provisions of this act, shall be audi-
28 ted by the Board of Supervisors, and paid out of the treasury
29 of the county of Webster.

HOUSE BILL No. 101.

A BILL ADMITTING THE COUNTY OF JEFFERSON INTO, AND MAKING THE SAME PART OF THIS STATE.

1 WHEREAS, by an act of the General Assembly of the State
2 of Virginia, entitled "An Act giving consent to the admission
3 of certain counties into the new State of West Virginia, upon
4 certain conditions," passed February 4, 1863, it was, among
5 other things, enacted, that at the general election on the fourth
6 Thursday of May, one thousand eight hundred and sixty-
7 three, it should be lawful for the voters of the district com-
8 posed of the counties of Frederick and Jefferson, or either of
9 them, to declare by their votes whether the counties of the said
10 district should be annexed to and become part of the State of
11 West Virginia, and the consent of the said general assembly
12 was thereby given for the annexation to this State of such dis-
13 trict, if a majority of the votes polled therein should so deter-
14 mine; provided, that this legislature should also consent and
15 agree to the said annexation; after which all jurisdiction of
16 the State of Virginia over the district so annexed should
17 cease:

18 And whereas, it was further provided by the said act, that
19 it should be the duty of the Governor of the said State of Vir-
20 ginia to ascertain and certify the result of the said vote as
21 other elections are certified, and Francis H. Peirpoint, Gover-
22 nor of the State of Virginia did, on the — day of —,
23 in the present year, after reciting that polls were opened in

24 the said county of Jefferson, on Thursday, the twenty-eighth
25 day of May, eighteen hundred and sixty-three, on the question
26 of annexation to the said new State act, certify under his hand
27 and the less seal of the State of Virginia, that from the returns
28 made to the executive department thereof, a very large major-
29 ity of the votes cast at the said election were in favor of the
30 said annexation of the said county of Jefferson to the State of
31 West Virginia; therefore,

Be it enacted by the Legislature of West Virginia:

32 1. The county of Jefferson, lately constituting part of the
33 Commonwealth of Virginia, is hereby admitted into and made
34 part of this State, and shall constitute part of the tenth Sena-
35 torial District, and of the tenth judicial circuit, and shall at
36 the election herein provided for, and at every annual State
37 election thereafter, choose two members of the House of Del-
38 egates.

39 2. It shall be the duty of the Governor, so soon as he shall
40 have reason to believe that an election can be properly held in
41 the said county, to issue his proclamation directing an election
42 to be held on such day as he shall appoint, at the several
43 places for holding elections therein, for the election of two del-
44 egates, an assessor, clerk of the circuit court, sheriff, prosecu-
45 ting attorney, surveyor of lands, and recorder, and appointing
46 three voters of the said county, any two of whom may act and

47 any one or more of whom may fill vacancies in their own body,
48 who shall serve as superintendents of the said election.

49 3. The said superintendents shall, for every place of voting
50 in the said county, appoint three commissioners, any two of
51 whom may act, and a conductor, to superintend and conduct
52 the election at the place for which they are appointed. They
53 shall furnish the commissioners for each place of voting with
54 the proper ballot boxes, poll books, and forms. But if at the
55 time the polls should be opened at any place of voting there
56 shall be present but one commissioner willing to act, he shall
57 associate with himself as a commissioner, some freeholder of
58 the county then present; and if there be no commissioner pres-
59 ent willing to act, any two freeholders of the county present
60 and willing to act, shall be commissioners.

61 4. In all other respects the said election shall be conducted
62 and the result ascertained, certified, and returned, according
63 to the directions contained in clauses V, VI, VII, VIII, IX,
64 X, XI, XII, XIII, XVII, XIX, XX, and XXI of an ordi-
65 nance of the Constitutional Convention, entitled "An ordi-
66 nance to provide for the organization of the State of West
67 Virginia," passed February 19, 1863. The Secretary of the
68 State shall prepare and forward in time, to the superintend-
69 ents to be appointed as aforesaid, poll books and the proper
70 forms of oaths and returns, and three printed copies of the
71 constitution as amended, for every place of voting in the said

72 county, and the said superintendents shall make proper distri-
73 bution of the same.

74 5. The terms of office of the persons elected at the election
75 herein directed to be held, if for more than one year, shall
76 commence as soon thereafter as they are qualified, as required
77 by law; but if for more than one year, shall continue and be
78 computed as if the same had begun on the first day of January
79 last, as if for one year only, and if the same had begun on the
80 first day of January next.

81 6. All officers acting within the said county by the author-
82 ity of the laws of Virginia, and under the reorganized govern-
83 ment thereof, at the time of the passage of this act, shall con-
84 tinue to exercise the powers and perform the duties of their
85 respective offices, in the name and under the authority of the
86 State of West Virginia, until the officers elected or appointed
87 under this or any other act of this Legislature, for the dis-
88 and charge of similar duties, are qualified.

89 7. The terms of the circuit court for the said county shall
90 commence on the twenty-seventh day of April, June, October,
91 December, in every year.

92 8. The Governor shall also appoint one person for each
93 magisterial district of the said county, commissioners to di-
94 vide the same into townships, under the provisions of an act
95 entitled "An Act to provide for the division into townships of
96 the several counties of the State," passed July 31, 1863.

HOUSE BILL No. 102.

**A BILL MAKING AN APPROPRIATION TO DEFRAY
THE EXPENSE OF REMOVING SICK, WOUNDED,
AND DEAD SOLDIERS.**

Be it enacted by the Legislature of West Virginia:

1 1. The sum of two thousand dollars is hereby appropriated
2 out of the Treasury of this State, to defray the expense of re-
3 moving, to their homes, from the hospitals or fated fields, the
4 sick and wounded soldiers, and the remains of those who have
5 fallen in battle belonging to regiments from West Virginia, in
6 the service of the United States, where the soldiers themselves
7 or their friends are unable to pay the expense of such trans-
8 portation.

9 2. This appropriation shall be subject to the disposal of the
10 Governor of this State.

HOUSE BILL No. 103.

A BILL AUTHORIZING THE CITIZENS OF BOONE, LOGAN, McDOWELL, WYOMING, MERCER, MONROE, RALEIGH, AND FAYETTE COUNTIES, TO SUE FOR CERTAIN DEBTS IN THE COUNTY OF KANAWHA.

1 WHEREAS, law cannot be administered and justice obtained
2 in the counties of Boone, Logan, McDowell, Wyoming, Mer-
3 cer, Monroe, Raleigh, and Fayette, and whereas many of the
4 loyal citizens of said counties have debts and claims against
5 the rebel citizens of said counties for property, goods, and
6 chattles, of which they have been robbed; therefore,

Be it enacted by the Legislature of West Virginia :

7 1. It shall be lawful for any loyal citizen, to sue in Kana-
8 wha county, those disloyal citizens and collect their debts
9 irrespective of the stay law.

HOUSE BILL No. 104.

A BILL TO PROVIDE FOR TAXES ON PROCESS IN SUITS, OFFICIAL SEALS, AND DEEDS.

Be it enacted by the Legislature of West Virginia:

1 1. There shall be a tax paid when suit is commenced in a
2 circuit court; or when an appeal, writ of error, or supersedeas
3 is commenced in the supreme court of appeals.

4 2. There shall be a tax when the seal of a court, a recorder
5 or notary public, or the seal of the State is annexed to any
6 paper except in the cases hereinafter provided for.

7 3. No tax shall be charged when a seal is annexed to any
8 paper or document, to be used in obtaining the benefit of a
9 pension, revolutionary claim, money due on account of mili-
10 tary services or land bounty, under any act of congress, or any
11 law of this, or any other State, or when a seal is annexed by
12 a notary public to an affidavit or deposition.

13 4. There shall be a tax on deeds; and no deed shall be ad-
14 mitted to record until the tax thereon is paid to the recorder;
15 except on deeds conveying land as a site for a public school
16 house, or church, on which there shall be no tax.

17 5. The taxes on process, and on seals of courts shall be paid
18 to the clerks respectively, of the courts from which such pro-
19 cess is issued, or whose seal is used; the tax on the seal of a

20 recorder shall be paid to such recorder; the tax on the seal of
21 a notary public shall be paid to such notary; and that on the
22 seal of the State to the secretary of the State.

23 6. The clerk of each court, every notary public and recor-
24 der, and the secretary of the State, shall make out quarterly,
25 on the first day of January, April, July, and October, respec-
26 tively, in each year, an account of the taxes received by him.
27 Each of the said officers shall swear to the correctness of the
28 account; and shall pay the amount thereof to the treasurers of
29 the several counties wherein the said taxes have accrued, and
30 take duplicate receipts therefor, one of which shall be trans-
31 mitted along with said account, by the officer making the same
32 to the auditor, deducting therefrom a commission of — per
33 centum for receiving and paying the same.

34 7. If any of the said officers fail to render such accounts
35 within thirty days after they are respectively required to do so,
36 there shall be a forfeiture as follows: A clerk so failing shall
37 forfeit two hundred dollars, a notary public one hundred dol-
38 lars, a recorder fifty dollars, and the secretary of the State
40 one hundred dollars; and for every month, that such failure
41 may continue thereafter, there shall be an addition of —
42 per centum of the amount thereof. For any such failure, mo-
43 tions may be repeated from time to time, so long as it contin-
44 ues against any of the officers and their sureties in the circuit
45 court of the county in which the seat of government is.

46 8. The county treasurer shall transmit the taxes hereinbe-
47 fore provided to be paid to them by the several officers, to the
48 auditor, within thirty days after the first days of the said
49 months of January, April, July, and October, respectively,
50 deducting — per centum for receiving and transmitting the
51 same.

52 9. If there be no county treasurer, the said officers shall
53 transmit said taxes along with the accounts hereinbefore re-
54 quired; under the same limitations and forfeitures as are pre-
55 scribed in the preceding sections.

56 10. None of the aforesaid officers or treasurers shall receive
58 any money from the treasury until he shall have rendered such
59 accounts and made such payments as are above required.

60 11. Chapter forty of the Code of Virginia, edition of 1860,
-61 is hereby repealed.

HOUSE BILL No. 105.

A BILL FOR THE COLLECTION OF TAXES.

Be it enacted by the Legislature of West Virginia:

1 1. The taxes assessed in any county shall be collected by the
2 sheriff or collector thereof. Each sheriff or collector shall com-
3 mence his collection yearly on the first day of July, or as soon
4 thereafter as he may receive a copy of the assessor's books, and
5 may, after such a time, make distress therefor.

6 2. A person not residing in the county in which his land may
7 lie, may, before the first day of October in any year, pay into the
8 treasury in advance the taxes assessed on such land for such
9 year, upon a certificate of the auditor, for which a fee of fifty
10 cents shall be paid to that officer. A list of such payments shall
11 be transmitted by said auditor, immediately after the first day of
12 October, to the sheriffs or collectors of the counties wherein such
13 lands shall be situated, who shall be governed accordingly.

14 3. It shall be the duty of the sheriff or collector to give no-
15 tice by posting at the public place of meeting of the people of
16 each township, for at least thirty days before the time appointed,
17 that he will attend at said place, on some day fixed for a public
18 meeting of the people of said township, between the first day of
19 September and the first day of December following, for the pur-
20 pose of receiving taxes due by the people residing or paying
21 taxes in said township, and that he will make a discount of —

22 per centum to all such persons as shall pay all their taxes on
23 that day, and not otherwise; which discount the said sheriff or
24 collector shall allow out of the per centage allowed to him for
25 collecting said taxes.

26 4. No distress shall be made for taxes or levies where the
27 sheriff or collector has had more than two years to collect the
28 same, unless it be for taxes returned delinquent and sent out by
29 the auditor for collection, as provided by law. But a sheriff or
30 collector of a former term may, notwithstanding the expiration
31 of his term of office, by himself or his deputies, have the same
32 powers of distress and sale as he possessed before said term ex-
33 pired; and which right of distress and sale shall continue for the
34 term of two years from the time such right accrued; but no de-
34 puty shall be permitted to qualify for such collections after the
35 principal's office has expired.

36 5. Any goods or chattels in the county belonging to the per-
37 son or estate assessed with them, may be distrained therefor by
38 the sheriff or collector.

39 6. The goods and chattels of the tenant or other person in
40 possession, claiming under the party or estate assessed with
41 taxes on land, may be distrained if found on the premises. But
42 when taxes are assessed wholly to one person, on a tract or lot,
43 part of which has become the freehold of another by a title re-
44 corded before the commencement of the year for which such taxes
45 are assessed, the property belonging to the owner of that part
46 shall not be distrained for more than a due proportion of said
47 taxes.

48 7. Where taxes are assessed on a tract of land lying partly in
49 one county and partly in another, the sheriff or collector of the
50 county in which the taxes are so assessed, may distrain on that
51 part of the land lying in the other county, in the same man-
52 ner as if such part was in his own county.

53 8. No deed of trust or mortgage upon goods or chattels shall
54 prevent the same from being distrained and sold for taxes assess-
55 ed against the grantor in such deed, while such goods and chat-
56 tels remain in the grantor's possession; nor shall any such deed
57 prevent the goods and chattels conveyed from being distrained
58 and sold for taxes assessed thereon, no matter in whose posses-
59 sion they may be found.

60 9. When the officer cannot find sufficient goods or chattels to
61 distrain for taxes, any person indebted to or having in his hands
62 estate of the party assessed with such taxes, may be applied to
63 for payment thereof out of such debt or estate, and a payment
64 by such person of the said taxes, either in whole or in part, shall
65 entitle him to a charge or credit for so much on account of such
66 debt or estate, against the party so assessed. If the person ap-
67 plied to do not pay so much as it may seem to the officer, ought
68 to be recovered on account of the debt or estate in his hands,
69 the officer shall, if the sum due for such taxes exceed not one
70 hundred dollars, procure from a justice a summons, directing
71 such person to appear before some justice at such time and place
72 as may seem reasonable; and if the sum due exceed one hundred
73 dollars, he shall procure from the clerk of the circuit court of

74 the county a summons, directing such person to appear before
75 the circuit court for the county, on the first day of the next
76 term thereof. And from the time of the service of any such
77 summons, the said taxes shall constitute a lien on the debt so
78 due from such person, or on the said estate in his hands.

79 10. If such summons be returned executed, and the person so
80 summoned do not appear, judgment shall be entered against
81 him for the sum due for such taxes and for the fees of the clerk
82 and of the officer who may execute the summons.

83 11. If the person so summoned appear, he shall be interroga-
84 ted on oath, and such evidence may be heard as shall be adduced,
85 and such judgment shall be rendered as upon the whole case
86 seems proper.

87 12. A tenant from whom payment shall be obtained by dis-
88 tress or otherwise, of taxes due from a person under whom he
89 holds, shall have credit for the same against such person, out of
90 the rents he may owe him, except tax by an express contract
91 with such person.

92 13. Where a tax is paid by a fiduciary on the principal, inter-
93 est or profits of moneys of an estate laid out or invested, either
94 under an order of court or otherwise, the tax shall be refunded
95 out of such estate.

96 14. The sheriff or other collector, after ascertaining which of
97 the taxes assessed in his county cannot be collected, shall as soon
98 as practicable, in each year, after the first day of October, make
99 out lists of three classes: First, A list of property on the as-

100 sessor's land book improperly placed thereon, or not ascertain-
 101 able, with the amount of taxes charged on such property; Sec-
 102 ondly, A list of other real estate which is delinquent for the
 103 non-payment of the taxes thereon; and Thirdly, A list of such
 104 of the taxes so assessed, other than on real estate, as he is una-
 105 ble to collect.

106 15. In the lists mentioned in the preceeding section, the
 107 names of the persons charged with the taxes, shall be placed
 108 alphabetically. The list mentioned secondly, shall be in the
 109 following form:

*Lists of real estate in the county of ——— delinquent for the non-pay-
 ment of taxes thereon, for the year ———.*

Name of person.	Residence.	Estate held.	Quantity of land.	Description and location of land.	Distance and bearing from Court House.	Amount of taxes.	Why returned delinquent.

110 and the sheriff or collector returning such list, shall at the
 111 foot thereof, subscribe the following oath: "I, A B, sheriff or
 112 collector of the county of ——— do swear, that the foregoing
 113 list is, I verily believe, correct and just; that I have received
 114 no part of the taxes for which the real estate therein mentioned
 115 is returned delinquent; and that I have used due diligence to
 116 find property within my county liable to distress for the said
 117 taxes, but have found none."

118 16. The lists mentioned first and thirdly in the fourteenth

119 section, shall each of them be verified by the oath of the sher-
120 iff or collector, and a copy of that thirdly mentioned, shall be
121 posted at the front door of the court house of the county, on a
123 court day, or during the sitting of the board of supervisors,
124 during the term, or sitting, next preceding that at which the
125 list may be presented to the board of supervisors.

126 17. If by reason of war or other like cause, it may be ren-
127 dered unsafe and dangerous to collect the taxes in any portion
128 of any of the counties within the regular period for the col-
129 lection of the same, the sheriff or collector shall make out lists
130 of such taxes, not collected from such cause, as provided for in
131 sections fourteen and fifteen and return the same as required
132 in said sections for other lists.

133 18. Each of the before named lists shall be presented to the
134 board of supervisors of the county, and examined by said
135 board. The board having become satisfied of the correctness
136 of the said lists, or having corrected them if erroneous, shall
137 direct their clerk to certify copies thereof to the auditor, and
138 a copy of the first mentioned to the assessor, who shall correct
139 his books accordingly. The original lists shall be preserved by
140 the clerk in his office. After the said copies are so directed to
141 be certified, the sheriff or collector shall not receive any of the
142 taxes mentioned in the said lists, but they may be paid into
143 the treasury, or the personal property tax may be paid to the
144 county treasurer, who shall be accountable therefor in like
145 manner as for any revenues or taxes that may come into his
146 hands.

147 19. Any officer who shall return in any such list real estate,
148 persons or property, as delinquent for the non-payment of taxes,
149 when such taxes on any part thereof shall have been actually
150 received by him, shall forfeit, if the return was by design, ten
151 times the amount of taxes so actually received, and if the re-
152 turn was by mistake, twice the amount; one-half of which for-
153 feiture shall in each case be to the State, and the other half to
154 the persons charged with such taxes. And any such officer
155 who shall return in such list any real estate, persons or prop-
156 erty as delinquent, when he had either found or might have
157 found sufficient property within his bailiwick liable to distress
158 for the taxes for which such real estate, persons or property
159 are returned delinquent, shall forfeit to the State a sum equal
160 to five times the amount of the said taxes.

161 20. The copies of the lists directed to be certified to the au-
162 ditor, shall be placed by the clerk in a sealed enclosure directed
163 to that officer, and delivered to the sheriff or collector by whom
164 the lists were returned. The auditor shall credit the sheriff or
165 collector with the amount of taxes mentioned in such lists, if
166 the said lists be presented at his office before the first day of
167 May next after the said taxes were assessed, but not otherwise.

168 21. The lists required by the fourteenth section of this act
169 to be made out by the sheriff or collector, shall not be allowed
170 unless they have been first submitted to the assessor for the
171 district to which they relate, or, in case of his death, to some
172 other assessor, or a commissioner to be appointed by the board

173 of supervisors, or the clerk of the said board, touching the pro-
174 priety of such lists, and each case therein contained verified by
175 his oath.

176 The second and third lists heretofore returned, and when
177 the third list mentioned in the said section shall hereafter be
178 allowed, a copy thereof shall be placed by the auditor in the
179 hands of any sheriff or collector of any county for collection, to
180 be returned within one year thereafter, and accounted for as
181 other assessed taxes; or if the auditor see fit, he may place such
182 copy in the hands of any constable as collector, who shall have
183 the same power of distress as sheriffs or collectors, and shall
184 account for the same in like manner; and he and his securities
185 shall be subject to all such remedies as are given the State
186 against sheriffs for failure to pay; and his compensation shall
187 not exceed twenty per centum of the amount collected and paid
188 into the treasury.

189 22. The list mentioned in the seventeenth section of this act
190 shall be returned by the auditor to the sheriff or his successor
191 whenever the obstructions to the collection of the taxes therein
192 contained shall be removed, who shall proceed to collect and
193 account for the same as in other cases.

194 23. The taxes assessed under the law providing for the "as-
195 sessment of taxes on persons and property," and collected un-
196 der this act, shall be paid into the treasury as follows: Three-
197 fourths of such taxes shall be paid on or before the fifteenth day
198 of December, in the year in which the same may be assessed,

199 and the remaining one-fourth thereof on or before the fifteenth
 200 day of March next thereafter, save only as follows: A sheriff
 201 or collector, the court-house of whose county is more than thirty
 202 miles from the seat of government, shall be allowed in addition,
 203 one day after the said fifteenth day of December, and fifteenth
 204 day of March, for every thirty miles distance therefrom. A
 205 sheriff or collector who may not have qualified, or who may not
 206 have received the books of the assessor before the first day of
 207 August, shall be allowed five months from his qualification, of
 208 the delivery of said books to such sheriff or collector, to pay the
 209 same into the treasury.

210 24. Every sheriff or collector shall be allowed a commission
 211 of ——— per centum on the amount of taxes with which he is
 212 chargeable; and if he shall punctually pay the same into the
 213 treasury within the time required by law, he shall be allowed
 214 an additional compensation of ——— per centum. Any sheriff
 215 who may have paid into the treasury, taxes for any tax payer,
 216 shall have the same remedy for the collection of the same as if
 217 they had not been so paid.

218 25. In case of a failure so to pay, the auditor shall immedi-
 219 ately publish notice of such failure, in some newspaper at the
 220 seat of government, setting forth that on a certain day within
 221 three months after such failure, he will file in the office of the
 222 circuit court of the county wherein is the seat of government,
 223 with the clerk thereof, an accurate account with which any
 224 such sheriff or collector may be chargeable on account of such

225 taxes; and thereupon such clerk shall enter up a judgment
226 against such sheriff or collector, for the amount wherewith he
227 is so chargeable, with lawful interest thereon from the time of
228 such failure, until payment thereof, and fifteen per centum
229 damages in addition thereto, unless the auditor shall recom-
230 mend a reduction thereof; which judgment shall have the same
231 validity, and be subject in all respects to the like proceedings
232 thereupon, as if it had been rendered by the court. But any
233 person aggrieved by such judgment, may apply to the circuit
234 court at the seat of government, within six months after it is
235 so entered up, to set aside said judgment and try said cause.
236 The court, for good cause, may set aside such judgment and
237 proceed to try the case upon its merits, and affirm the same, or
238 render such judgment as it may consider proper. In any case
239 of failure to pay, proceedings may be had according to the for-
240 ty-second chapter of the Code of Virginia, second edition, only
241 such proceedings shall be had in the circuit court at the seat of
242 government of the State of West Virginia, and in the name
243 thereof. And from the time a notice shall be served, under
244 the said chapter, on any such sheriff or collector, the property
245 of such sheriff or collector shall be bound for the payment of
246 any judgment which may be rendered upon such proceeding,
247 in the same manner that property is bound under the third
248 section of chapter one hundred and eighty-eight of said Code;
249 upon delivery of a *fiery facias* to a sheriff or other officer, and
250 shall also operate as a lien on the real estate of such sheriff or

251 collector, from the time of the service of such notice. The
252 right of the State to proceed by notice or otherwise, against
253 the sureties of such sheriff or collector, shall not be affected
254 thereby.

255 26. Every sheriff or collector of the revenue who does not pay
256 the same into the treasury within such time as to be entitled to
257 the additional compensation allowed for punctual payment,
258 shall be charged with interest on the revenue so due and un-
259 paid, from the time when the same was regularly payable into
260 the treasury. The said interest shall be at the rate of twelve
261 per centum per annum; but if the revenue is not in arrear more
262 than three months, the auditor shall abate six per centum of
263 said interest. If the revenue has been in arrear three months,
264 and not more than six months, then the auditor shall abate four
265 per centum. If the revenue has been in arrear for six months,
266 and not exceeding nine months, then the auditor may abate
267 two per centum.

268 27. The auditor may appoint a collector in any county to col-
269 lect arrears of taxes therein, and may allow him a reasonable
270 compensation, to be agreed on before the service is commenced,
271 and approved by the executive, which compensation shall not
272 exceed twenty per centum on what may be collected and paid
273 into the public treasury.

274 28. Such collector shall have a reasonable time allowed him
275 by the auditor, and shall, before he acts, execute a bond, ap-
276 proved by the said auditor, conditioned that he will faithfully

277 collect the said arrears of taxes, and account for and pay the
278 same into the treasury within the time allowed. The said bond
279 shall remain filed in the auditor's office.

280 - 29. All acts and parts of acts coming within the purview of
281 this act, are hereby repealed.

HOUSE BILL No. 106.

A BILL IMPOSING TAXES.

Be it enacted by the Legislature of West Virginia :

- 1 1. The taxes on the persons and subjects, required by law
2 to be listed or assessed, shall be yearly as follows : On tracts of
3 land and lots, with the improvements, not exempted from tax-
4 ation, — cents on every hundred dollars value thereof.
- 5 2. On all the personal property, moneys, and credits requir-
6 ed by law to be listed, and not exempt from taxation, — cents
7 on every hundred dollars value thereof. “Moneys and credits”
8 shall be construed to include all moneys and credits owned by
9 any resident in this State, whether such moneys or credits are
10 within or without the State.
- 11 3. On every white male inhabitant who has attained the age
12 of twenty-one years, one dollar.
- 13 4. On every male free negro who has attained the age of
14 twenty-one years, — cents.
- 15 5. On the income of fees received during the year ending
16 the first day of February of each year, in consideration of the
17 discharge of any office or employment in the service of the State,
18 or in consideration of the discharge of any office or employment

19 in the service of any corporation, or in the service of any com-
 20 pany, firm, or person, except where the service is that of a minis-
 21 ter of the gospel, the same be more than three hundred dollars,
 22 ——— per centum on the whole amount of such income or
 23 fees. The tax payable under this section, by an officer of gov-
 24 ernment receiving a salary out of the treasury, shall be deduct-
 25 ed at the time the salary is audited and paid.

26 6. On the yearly rent or annual value of toll bridges and
 27 ferries, other than those toll bridges and ferries exempt by their
 28 charters from taxation, ——— per centum.

29 7. The taxes on licenses shall be as follows: On a license to
 30 keep a hotel or tavern, ——— dollars; and if the yearly val-
 31 ue of such house and furniture exceeds one hundred dollars,
 32 and is less than two hundred dollars, the tax shall be ———
 33 dollars; and if the yearly value thereof exceeds two hundred
 34 dollars, there shall be added to the last mentioned sum ———
 35 per centum on so much thereof as exceeds two hundred dol-
 36 lars.

37 8. On a license to keep a house of private entertainment, or
 38 a private boarding house, or any other house kept for public
 39 resort, ——— dollars; and if the yearly value of such house
 40 and furniture exceeds fifty dollars, and is less than one hundred
 41 dollars, the tax shall be ——— dollars; and if the yearly
 42 value thereof exceed one hundred dollars, there shall be added

43 to the last mentioned sum ——— per centum on so much there-
44 of as exceeds one hundred dollars, but no house shall be deem-
45 ed a private boarding house with less than five boarders, or
46 which is kept to board exclusively laborers or students at a
47 public school.

48 9. On every license to keep a cook shop or eating house
49 kept for public resort, ——— dollars; and in addition there-
50 to ——— per centum on so much of the yearly value thereof
51 as exceeds one hundred dollars.

52 10. On every license permitting a bowling alley or saloon
53 to be kept for a year, ——— dollars; provided that when
54 there is more than one such alley kept in one room, ———
55 dollars each shall be charged for the excess over one.

56 11. And on every license permitting a billiard table to be
57 kept for a year, ——— dollars; provided that where there is
58 more than one such table kept in any one room, ——— dol-
59 lars, shall be charged for each in excess; provided, that if
60 such bowling saloon or alley, or billiard table are not kept open
61 more than four months in any one year, the taxes thereon shall
62 be only one-half of these rates.

63 12. In every case where a merchant procures a license to
64 sell wine, ardent spirits, or a mixture thereof, porter, ale, or
65 beer, by retail, if such merchant commences business, he shall
66 pay a tax of ——— dollars; and if such merchant continue

67 business, the tax on such privilege of retailing shall be ———
68 per centum on the amount of his sales at retail of wines, ar-
69 dent spirits, or a mixture thereof, porter, ale or beer, the prece-
70 ding year, to be ascertained as in the case of other sales of
71 merchants, in addition to the specific tax on beginners.

72 13. On every license permitting the proprietor or occupier
73 of any public room fitted for public exhibitions, to use the
74 same for such purpose for a year, ——— dollars, if such room
75 be in a town of less than five thousand inhabitants; and——
76 dollars in any town having a greater number of inhabitants;
77 and in addition to these rates there shall be added ———
78 cents on every hundred dollars value of such rooms or build-
79 ings. provided such rooms and buildings have not been other-
80 wise assessed.

80½ 14. On every license permitting theatrical performances, in
81 a public theatre or elsewhere, ——— dollars per week for each
82 week of such performances, notwithstanding the owner or oc-
83 cupier of the place of exhibition shall have paid the license tax
84 above required.

85 15. On every license permitting the sale of refreshments in
86 a theatre or other building used for such performances, during
87 said performances, ——— dollars for each place of sale; and
88 no abatement shall be made, if the privilege be exercised for
89 less than a year.

90 16. On every license permitting any public show, exhibi-
91 tion, or performance, if in a corporate town or within five
92 miles thereof, for each performance, ——— dollars, if else-
93 where ——— dollars; and for every exhibition of a circus,
94 if within a corporate town, or within five miles thereof, ———
95 dollars, if elsewhere, ——— dollars; and for every exhibition of
96 a menagerie, if within a corporate town, or within five miles
97 thereof, ——— dollars, if elsewhere ——— dollars. All
98 such shows, exhibitions, and performances, whether under the
99 same canvass or not, shall be construed to require separate
100 licenses therefor; and upon any such shows, exhibitions, and
101 performances being concluded so that an additional fee for
102 admission be charged, the same be construed to require an
103 additional license therefor.

104 17. On every license to sell by retail, porter, ale, or beer,
105 ——— dollars; and if continued more than a year by the
106 same party, an additional tax of ——— per centum on the
107 amount of sales of the preceding year to be ascertained as in
108 the case of merchants.

109 18. On every license to sell wine, ardent spirits or a mix-
110 ture thereof, ——— dollars, and if continued more than a
111 year by the same party, an additional tax of ——— per cen-
112 tum on the amount of sales of the preceding year, to be as-
113 certained as in the preceding section.

114 19. On every license to a hawker or pedler to sell goods,
115 wares and merchandise, ——— dollars in each county in
116 which he hawks or peddles.

117 20. On every license to a non-resident dentist, ———
118 dollars.

119 21. On every license to a non-resident daguerrean, photo-
120 graphist or such like artist, ——— dollars.

121 22. There shall be paid by the agent of every insurance
122 company not chartered by this State, ——— per centum on
123 the gross income on its business transacted by such agent
124 within this State.

125 23. There shall be paid by the agent of every express
126 company, whether chartered or not, carrying on business
127 within this State, ——— per centum on the gross income
128 from its business within this State, to be ascertained as is
129 prescribed by law: nothing in this section contained shall be
130 construed to exempt such company from paying taxes on its
131 property, as in other cases.

132 24. When any original suit, attachment or other action is
133 commenced in a circuit court, there shall be a tax of ———;
134 if it be an appeal, writ of error, or supersedeas in the su-
135 preme court of appeals the tax shall be ———.

136 25. When the seal of a court, of a recorder, of a notary
137 public, or the seal of the State is annexed to any paper, ex-

138 cept in those cases exempted by law, the taxes shall be as
139 follows: For the seal of State,———; for any other seal,
140 ———, and herein shall be included a tax on a scroll annex-
141 ed to a paper in lieu of an official seal.

142 26. On every deed admitted to record, whether the same
143 has been recorded before or not, and on every contract rela-
144 ting to real estate, whether it be a deed or not, which is ad-
145 mitted to record, there shall be a tax of ———.

146 27. Chapter forty of the Code Virginia, second edition, is
147 hereby repealed.

HOUSE BILL No. 107.

A BILL TO AUTHORIZE THE CLERK OF THE SUPREME COURT OF APPEALS TO TAKE ORDERS OF PUBLICATION IN VACATION.

Be it enacted by the Legislature of West Virginia :

1 1. When, by the return of any officer of process issued to
2 answer any appeal or supercedeas now pending, or which may
3 be hereafter pending in the supreme court of appeals in this
4 State, or when from affidavits filed with the clerk of said court,
5 it shall appear that the appellee or defendant in any such ap-
6 peal or supercedeas is a non-resident of this State, or that the
7 names or places of residence of such parties are unknown, so
8 that process cannot be served upon them, it shall be lawful for
9 the clerk of said court in vacation, upon application, to take
10 and issue, on the first Monday in any month, an order of pub-
11 lication against such absent or unknown parties, requiring
12 them to appear on a certain day to be designated in said order,
13 then and there to answer the said appeal or supersedeas, and to
14 have a re-hearing of the whole matter therein contained.

15 2. Such order of publication shall be entered upon the or-
16 der book of the court by the clerk, and signed by him, and a
17 certified copy of said order shall be inserted once a week for

18 four weeks, in some newspaper to be named therein, and a
19 copy of said order shall be posted at the front door of the
20 building in which said court is held, and when it shall appear
21 that said order of publication has been duly published and
22 posted as aforesaid, the said court may proceed to hear and
23 decide such causes in the same manner as if the said parties
24 had been personally served with process; provided, however,
25 that the order of publication shall have been executed as afore-
26 said, at least thirty days before the day on which any such
27 case may be called for trial.

HOUSE BILL No. 109.

A BILL AUTHORIZING MERCHANTS LICENSES TO BE TRANSFERRED.

Be it enacted by the Legislature of West Virginia :

1 1. When a person, who has obtained a license or
2 paid a tax for a license to sell goods or merchandise,
3 at one place or store, removes to another store or place
4 in the county where such license was obtained, and
5 wishes his license altered accordingly, the recorder of
6 the county may authorize such alteration.

7 2. When a person, who has obtained a license, or paid
8 a tax for a license to sell goods on merchandise, and
9 has sold his goods or merchandise to another person
10 and wishes to transfer his license to the person to whom
11 he sold his goods or merchadise, the recorder of the
12 county is authorized to make such alteration or trans-
13 fer, provided the goods be sold in the county where the
14 license was obtained.

HOUSE BILL No. 110.

A BILL TO ALTER THE TERMS OF THE CIRCUIT COURTS, AND THE RULES, IN THE FIRST CIRCUIT, AFTER THE YEAR EIGHTEEN HUNDRED AND SIXTY-THREE.

Be it enacted by the Legislature of West Virginia :

1 1. The commencement of the terms of the circuit courts in
2 the several counties of the first circuit, after the thirty-first
3 day of December, in the year eighteen hundred and sixty-
4 three, instead of being as heretofore prescribed by law, shall
5 be as follows: For the county of Ohio, on the first Tuesday
6 of March, May, October, and December; For the county of
7 Marshall, on the first Tuesday of April, June, September and
8 November; for the county of Hancock, on the third Tuesday
9 of April, June, September, and November; and for the coun-
10 ty of Brooke, on the fourth Tuesday of April, the first Tues-
11 day of July, and the fourth Tuesday of September and No-
12 vember.

13 2. After the end of the present year, rules shall be held in
14 the clerks' offices of the said circuit courts, as follows: instead
15 of at the times heretofore prescribed by law. For the counties
16 of Ohio and Marshall, on the last Tuesday of every month;

17 for the county of Hancock, on the second Tuesday of every
18 month; and for the county of Brooke, on the third Tuesday
19 of every month; and the said rules may continue three days.

20 3. Special terms may be appointed and held in any county
21 of the said circuit pursuant to the twenty-ninth, thirty-first,
22 thirty-second and thirty-third sections of chapter one hundred
23 and fifty-eight of the Code of Virginia, second edition.

HOUSE BILL No. 111.

A BILL GIVING FORCE AND EFFECT WITHIN THIS STATE TO SUNDRY PROVISIONS OF THE SECOND EDITION OF THE CODE AND OTHER LAWS OF THE STATE OF VIRGINIA.

Be it enacted by the Legislature of West Virginia :

1 1. Whereas, the words "court of the county," or "county
2 court," or "court of the county or corporation," or any equiv-
3 alent expression, occur in any chapter or section of the Code
4 of Virginia, second edition, or in the laws of that State passed
5 under the reorganized government thereof, which are otherwise
6 in force within the boundaries of this State, under the eighth
7 section of the eleventh article of the constitution thereof, such
8 words shall have the same force and effect as if the words
9 "circuit court of the county," were substituted therefor.

10 2. All the powers and duties conferred on, or required of
11 the clerks of county courts, by any chapter or section of the
12 said code of laws, and not by the constitution or laws of this
13 State conferred on, or required of the recorders, justices, or
14 other officers or organizations thereof, are hereby, if they re-
15 late to the proper business of a court of justice, conferred on
16 and required of the clerks of the circuit courts, and if they do

17 not so relate, the clerks of the boards of supervisors, subject
18 to the same privileges, restrictions and penalties.

19 3. The provisions of the said code and laws relating to the
20 fees which the State and county officers therein mentioned, are
21 thereby allowed to charge, recover, or receive for acts done and
22 services rendered, unless the same are repugnant to the consti-
23 tution, or have been altered or repealed by the laws of this
24 State, are hereby declared in force in this State until the same
25 are altered or repealed by law, and the State, county and
26 township officers thereof, are hereby respectively authorized to
27 charge, recover, and receive the like fees for similar acts done
28 and services rendered by them in their official capacities.

HOUSE BILL No. 112.

**A BILL TO AMEND AN ACT PROVIDING FOR THE
SALE OF A CERTAIN LOT OF LAND HELD IN
TRUST FOR CERTAIN PURPOSES IN THE TOWN
OF WELLSBURG, IN THE COUNTY OF BROOKE.**

Be it enacted by the Legislature of West Virginia:

1 1. An act providing for the sale of a certain
2 lot of land held in trust for certain purposes in
3 the town of Wellsburg, in the county of Brooke,
4 passed March 15th, 1850, is hereby amended by
5 inserting the name of Narcissa Doddridge instead
6 of Philip B. Doddridge.

HOUSE BILL No. 113.

A BILL TO PRESCRIBE HOW NOTICE SHALL BE GIVEN OF APPLICATIONS TO THE LEGISLATURE FOR SPECIAL ACTS CONCERNING BANKS OF CIRCULATION OR INTERNAL IMPROVEMENT COMPANIES.

Be it enacted by the Legislature of West Virginia :

1 1. No act to incorporate any bank of circulation or internal
2 improvement company, or to confer additional privileges on
3 the same, shall be passed, unless public notice of the intended
4 application for such act be given by posting the same, at least
5 four weeks before the application is presented to the Legisla-
6 ture, at the front door of the court house of the county where
7 the principal office or place of business of the corporation is to
8 be kept; and also by advertisement for four weeks successive-
9 ly in some newspaper, if there be any printed in such county;
10 or, if there be no newspaper printed in the county, then in
11 some newspaper printed at the seat of Government. The no-
12 tice shall show the names and residence of the applicants and
13 the nature of the act to be applied for; and with every such
14 application, there shall be submitted to the Legislature proper
15 evidence, by affidavit or otherwise, that the regulations pre-
16 scribed by this act have been observed.

17 2. This act shall be held to apply only to such applications
18 as shall be hereafter presented.

HOUSE BILL No. 114.

A BILL AUTHORIZING THE COUNCIL OF THE TOWN OF PARKERSBURG TO TURN POND RUN INTO THE OHIO RIVER, WITHOUT THE CORPORATE LIMITS OF THE SAID TOWN.

Be it enacted by the Legislature of West Virginia :

1 1. The council of the town of Parkersburg are hereby au-
2 thorized and empowered to cause the channel or bed of Pond
3 Run, in the county of Wood, to be so changed as to discharge
4 the water thereof into the Ohio river, at such point or place
5 without the present corporate limits of the said town, as they
6 shall determine, and for that purpose to cause to be construct-
7 ed, such dams, embankments, canals, and aqueducts as they
8 may deem expedient.

9 2. If the council of the said town cannot agree on the terms
10 of purchase with those entitled to lands wanted for the purpo-
11 ses of this act, five disinterested freeholders shall be appointed
12 by the circuit court of the said county, any three of whom
13 may act, for the purpose of ascertaining a just compensation
14 for such lands.

15 3. Where it is intended to apply for such appointment, ten
16 days previous notice thereof shall be served on the tenant of
17 the freehold, or his guardian or committee. But if there be
18 no such tenant, guardian or committee within the said county,

19 the notice, instead of being thus served, may be published
20 once a week for four weeks in some newspaper published in
21 the said county, and posted at the door of the court house
22 thereof.

23 4. Upon its appearing that notice has been so given, the
24 said court shall appoint such commissioners, and in the order
25 appointing them, shall designate the day for them to meet. Any
26 one or more of them attending on the land, may adjourn from
27 time to time until the business shall be finished.

28 5. All other proceedings necessary in the premises shall be
29 conformed to, and in accordance with the provisions, so far as
30 applicable, of the ninth, tenth, eleventh, twelfth, thirteenth,
31 fourteenth, sixteenth, and twenty-ninth sections of chapter
32 fifty-six of the Code of Virginia, second edition, substituting
33 for the words, "court of the county or corporation," wherever
34 they occur in the said sections, the words, "circuit court of the
35 county of Wood; and the said council is hereby further au-
36 thorized and empowered to enter upon any convenient lands for
37 the purpose of obtaining therefrom wood, stone, gravel, and
38 earth to be used in the construction of the works mentioned in
39 the first section of this act, under and subject to the provisions,
40 so far as applicable, of the twenty-seventh section of the said
41 chapter of the said code.

HOUSE BILL No. 115.

A. BILL TO PROVIDE FOR REVISING, COLLATING, AND DIGESTING INTO A CODE THE LAWS NOW IN FORCE IN THIS STATE.

Be it enacted by the Legislature of West Virginia:

1 1. The contract made by Edward C. Bunker, James C.
2 McGrew, and Peter G. Van Winkle, a joint committee of this
3 Legislature, acting under the authority and in pursuance of a
4 joint resolution thereof, for and on behalf of this State, with
5 Daniel Lamb, and providing, in substance, that the said Daniel
6 Lamb shall, without unnecessary or avoidable delay, revise,
7 collate and digest into one code, to be called the Code of West
8 Virginia, all the laws now of force in this State, subject to the
9 conditions, directions, and stipulations therein contained, for
10 the sum of five thousand dollars, payable as therein covenan-
11 ted and agreed, the same to be in full of all charges and ex-
12 penses which may be incurred by the said Daniel Lamb, ex-
13 cept as therein excepted, is hereby approved, ratified, and
14 confirmed.

15 2. The sum of five thousand dollars is hereby appropriated
16 out of any money in the treasury not otherwise appropriated,
17 to be paid to the said Daniel Lamb, one thousand dollars on
18 the passage of this act, the like sum on the first day of Feb-
19 ruary, the first day of May, and the first day of August next,
20 and the residue upon the full performance of his said con-
21 tract.

HOUSE BILL No. 117.

A BILL FOR THE SUPPORT OF THE POOR.

Be it enacted by the Legislature of West Virginia :

1 1. All poor persons within this State who are from any
2 cause unable to support themselves, shall be supported as here-
3 inafter provided for.

4 2. The father, mother, children, grandfather if of ability
5 without his personal labor, and the male grandchildren who are
6 of ability, of any poor person who is unable to maintain him-
7 self by work, shall jointly or severally relieve or maintain such
8 poor person in such manner as may be approved by the over-
9 seer of the township wherein such poor person resides ; but
10 the officer shall have no control unless the poor person has ap-
11 plied to him for aid.

12 3. The word "father," in the preceding section, includes the
13 putative father of an illegitimate child ; and the question of
14 being the father may be tried before the circuit court of the
15 county, in any action to recover for or to compel the support
16 of an illegitimate child. But there shall be no obligation to
17 proceed against the putative father before proceeding against
18 the mother.

19 4. Upon failure of such relative so to relieve or maintain a
20 poor person who has made application for relief, the overseer of
21 the township may apply to a justice of the township where such
22 poor person resides, for an order to compel the same.

23 5. At least fifteen days notice shall be given of the applica-
24 tion by summons, requiring the kindred therein named to ap-
25 pear and answer thereto; which summons shall be directed to
26 any officer qualified to serve civil process between the parties.

27 6. The justice may proceed to hear the allegations and proof
28 of the parties, and may order any one or more of the relatives
29 of such poor person, who appear to be able, to relieve and
30 maintain him, charging them as far as practicable in the order
31 above named, and for that purpose making new parties to the
32 proceedings when necessary.

33 7. Such order may be for the entire or partial support of
34 the the poor person; and it may be for support either by mon-
35 ey or by taking the poor person to the relative's house; or the
36 order may assign the poor person for a certain time to one and
37 for another period to another, as he may adjudge just and con-
38 venient, taking into view the means of the several relatives.

39 8. If the justice order the relief in any other manner than
40 in money, he shall fix a just weekly value upon the same.

41 9. The order may be specific in point of time, or it may be

42 indefinite until the further order of the court, and may be va-
43 ried from time to time when circumstances require it, on ap-
44 plication of the trustees of the poor person or of any relative
45 affected by it, upon fourteen days' notice being given.

46 10. When money is ordered to be paid, it shall be to the
47 overseer.

48 11. If any person fail to render the support ordered, on the
49 affidavit of the overseer showing that fact, the justice may or-
50 der execution for the amount due, taking any support ordered
51 in kind as before assessed. In such proceedings the township
52 is plaintiff, and the person or persons sought to be charged de-
53 fendant or defendants.

RELIEF OF THE POOR WHERE THERE IS NO POOR HOUSE.

54 12. The overseer in a township where there is no poor house,
55 shall have the oversight and care of all poor persons in his
56 township so long as they remain a county charge, and shall
57 see that they are properly relieved and taken care of.

58 13. The poor must make application for relief to the over-
59 seer of the township where they may be; and if the overseer
60 is satisfied that the applicant is in such a state of want as re-
61 quires relief at the public expense, he may for the time being,
62 afford such relief as the necessities of the person may require
63 if the person have a legal settlement in the township, and shall

64 report the case forthwith to the supervisor of the township,
65 who is authorized to deny further aid to such person if he find
66 cause ; but a person shall not be deemed to have a legal settle-
67 tlement in such township until he shall have resided therein for
68 one year, and shall not then be deemed to have a legal settle-
69 ment if he has emigrated into the State within three years,
70 unless at the time of so doing he was able to maintain him-
71 self.

72 14. When on such application, an overseer refuses either
73 provision or assistance, the supervisor of the township may di-
74 rect the same.

75 15. On the complaint of any overseer of any township, be-
76 fore a justice thereof, that any person has come into such town-
77 ship who is likely to become chargeable thereto, such justice
78 may, by warrant, cause such person to be removed to the town-
79 ship wherein he was last legally settled, unless he be so sick or
80 disabled that he cannot be removed without danger of life ; in
81 which case he shall be provided for at the charge of the town-
82 ship wherein he is, and after his recovery shall be removed.

83 16. The overseer of the township wherein such person was
84 last legally settled, shall, upon his being removed thereto, pro-
85 vide for him and repay all the charges incurred for his main-
86 tenance, care and removal. If he die before removal, the

87 overseer shall repay the charges for his burial and those in-
88 curred during his sickness. In case of failure on the part of
89 the overseer to comply with this section, complaint may be
90 made before the circuit court of the county in which he re-
91 sides, and a summons may be awarded against him ; upon the
92 return of which executed upon him, the county court may or-
93 der him to provide for the poor person and order repayment of
94 the charges aforesaid, and compel obedience to any such order
95 by attachment or otherwise.

96 17. Every child born of a slave mother, after the fourth
97 day of July, eighteen hundred and sixty-three, shall be sup-
98 ported by the owner of the mother during its minority, and
99 shall, for that time, be under the control of the owner of the
100 mother, except in the particulars hereinafter mentioned, un-
101 less the mother should, by the seventh section of the eleventh
102 article of the constitution, or by the consent of her master,
103 sooner become free. In either event the child shall follow the
104 fortune of its mother. When the mother of a child born af-
105 ter the time aforesaid, remains a slave, the owner shall, with-
106 out writings, be considered bound toward it by all the provi-
107 sions of this act concerning masters and apprentices.

108 18. Any person who shall permit an insane aged or infirm
109 slave owned by him or under his control, to go at large with-

110 out adequate provision for his support, shall be punished by
111 fine not exceeding fifty dollars; and the overseer of the town-
112 ship in which the slave may be found, shall provide for his
113 maintenance, and may charge such person quarterly or annu-
114 ally with a sufficient sum therefor, and may recover it from
115 time to time by motion before a justice of the township in
116 which the owner lives. If any person shall, by sale, gift, or
117 otherwise dispose of any insane, aged or infirm slave who is,
118 or is likely to become chargeable, such person, or the donor
119 or vendor, (at the election of said overseer,) may be proceed-
120 ed against as the owner of the slave under this section-

121 19. The overseer of the poor of each township may, with
122 the consent of the supervisor of the township, bind out as ap-
123 prentices or servants the minor children of any poor person
124 who has become chargeable, to the township as having a law-
125 ful settlement therein, or who is supported there in whole or
126 in part, at the charge of the township; and also all minor
127 children who are themselves chargeable to the township as
128 having a lawful settlement therein. But no minor shall be
129 bound under the provisions of this act, unless such minor shall
130 have become chargeable as a pauper.

131 20. Such children whether over or under the age of four-
132 teen years, may be bound, males to the age of twenty-one,

133 and females to the age of eighteen years—and provision shall
134 be made in the contract for teaching such children to read,
135 write and the first principles of arithmetic, and for such other
136 instruction, benefits, and allowances, either within or at the
137 end of their term of service or apprenticeship, as the over-
138 may think reasonable. The bond shall be signed by the over-
139 seer of the poor and by the master, and a copy thereof left
140 by the overseer with the clerk of the township to be recorded
141 by him, and the copy preserved for the use of the minor.
142 The provisions of this section from and including the words
143 “and for such other instruction,” &c., shall in no wise be con-
144 strued to effect the owner mentioned in the seventeenth section
145 of this act.

146 21. All considerations of money or other things paid or
147 allowed by the master upon any contract of service or ap-
148 prenticeship, made in pursuance of this act, shall be paid or
149 secured to the sole use of the minor hereby bound.

150 22. The overseer of the poor shall inquire into the treat-
151 ment of all children bound by them and by their act, and all
152 who shall have been bound by their predecessors in office, and
153 defend them from all cruelty, neglect, and breach of contract
154 on the part of their masters.

155 23. In case of any misconduct or neglect on the part of

156 the master toward the minor, a complaint may be filed by the
157 overseer of the poor, setting forth the facts and circumstances
158 of the case, with a justice of the township; and the justice,
159 after having duly notified the master of such complaint, by
160 giving said master at least ten days notice of the time and
161 place, shall proceed to hear and determine the cause.

162 24. After a full hearing of the parties, or of the complain-
163 ant alone, if the master shall neglect to appear, the justice
164 may render a judgment that the minor be discharged from his
165 apprenticeship or service, and for the costs of the suit against
166 the master, and may issue execution for the same.

167 25. If the complaint shall not be maintained, and it shall
168 appear, to the satisfaction of the justice that the complaint
169 was made without any just or reasonable cause, the justice
170 shall render judgment for the costs against the complainant.

RELIEF OF THE POOR WHERE THERE IS A POOR HOUSE.

171 25. The board of supervisors of each county is hereby au-
172 thorized to provide for the election and establishment of a
173 poor house within their county when that measure is deemed
174 advisable, and also the purchase of such land as may be
175 deemed necessary for the use of the same; and said board is
176 hereby invested with full authority to make the requisite con-
177 tracts and see that said contracts are carried into effect; but

178 the building of the poor house, its costs, and the costs of the
179 land shall be first estimated and reported by the board, and
180 approved by the people at some regular election.

181 26. The expense of such erection and purchase, and all
182 repairs of the same, shall be defrayed by a tax levied on the
183 general assessment roll for that purpose; which shall consti-
184 tute a separate and special fund, to be collected and paid over
135 in the same manner as other taxes, but to be paid in money
186 only.

187 27. When a poor house is established in a county, the over-
188 seers of the townships of the county are to take charge of
189 the poor and the poor house, and shall be a body corporate
190 under the name of "the overseers of the poor of the county
191 of ——."

192 28. They shall, previous to acting, take the oaths prescri-
193 bed for officers of the State, and give bonds in such penalties
194 as shall be affixed by the board of supervisors.

195 29. They shall continue in office for one year, and until
196 their successors are appointed and qualified. They shall keep
197 a record of their proceedings; and if a vacancy occur in their
198 body, the board of supervisors may fill it by appointment to
199 continue until the end of the year.

200 30. They may make all contracts and purchases requisite

201 for the poor house, and shall prescribe rules or regulations for
202 the management and good government of the same, and for
203 the introduction and promotion of sobriety, morality, and in-
204 dustry among the occupants.

205 31. The overseers may appoint a steward for the poor
206 house, who shall, in all respects, be governed by the rules and
207 regulations of the board, and may be removed by them at
208 pleasure, and shall receive such compensation, perform such
209 duties, and give such security for their faithful performance,
210 as the board may determine.

211 32. The steward shall receive into the poor house any per-
212 son producing an order as hereinafter provided, and enter in
213 a book to be kept for the purpose, the name and age, name of
214 the township, and the date of the reception of such person.

215 33. He shall require of persons admitted to the poor house,
216 to perform such reasonable and moderate labor as may be
217 suited to their ages and bodily strength, the proceeds of
218 which shall be appropriated to the use of the poor house in
219 such manner as the overseers may determine.

220 34. No person shall be admitted to the poor house unless
221 upon the written order of the overseer of a township.

222 35. The overseers are empowered to bind out such poor
223 children of the poor house as they believe are likely to remain

224 a permanent charge on the public, males until twenty-one and
225 females until the age of eighteen, on such terms and condi-
226 tions as are prescribed in the preceding section concerning
227 masters and apprentices. And they may bind for shorter pe-
228 riods, on such terms as they may adopt.

229 36. When a poor person applying for relief is in condition
230 that will not admit of his removal to the poor house, the over-
231 seer may provide for his relief out of moneys in the county
232 treasury belonging to his township, until his condition will
233 admit of his removal.

234 37. The overseers shall cause the poor house to be visited
235 at least once a month by one of their number, who shall care-
236 fully examine the condition of the inmates, and the manner
237 in which they are fed and clothed and otherwise provided for
238 and treated, ascertain what labor they are required to perform,
239 inspect the books and accounts of the steward, and look into
240 all matters pertaining to the poor house; and report to the
241 board.

242 38. The board of overseers shall annually report to the board
243 of supervisors of the county, the state of the poor house, with
344 a full account of their joint contracts, disbursements and pro-
245 ceedings.

246 39. Annually on the——day of——, every overseer

247 in each county shall render to the board of supervisors of his
248 county, a correct account of his transactions, with proper
249 vouchers, and pay to its order such balance as may be in his
250 hands; or he shall report what amount in addition, if any,
251 will be required to pay arrears of the past, and meet expen-
252 ditures of the ensuing year, and what will be the nature of
253 said expenditures.

254 40. In every county the amount which, according to their
255 reports, the overseer of each township thereof will require,
256 shall be chargeable on their respective townships; and the
257 board of supervisors of the county, when it orders the annu-
258 al levy, shall provide for said amount. They shall be paya-
258 ble out of their respective levies, to the overseers of the re-
259 spective townships, and shall be paid by them individually, in
260 such sums as they may have arranged for.

261 41. The board of supervisors shall allow the overseers out
262 of the county treasury, such sum as it deems reasonable for
263 their services, not exceeding one dollar and a half for each
264 day necessarily employed in the duties of their office.

265 42. The overseers, on the tenth day after their election,
266 shall meet and appoint from their number, a president and
267 clerk. A meeting of the board may be called at any time
268 by the president with the consent of one third of the mem-

269 bers, upon giving to the others reasonable notice of the time
270 of meeting.

271 43. All proceedings and accounts of the overseers shall be
272 entered in a book and signed by the clerk and person presi-
273 ding.

274 44. If any person shall, without sufficient excuse, fail to
275 attend any meeting of the board, he shall forfeit to the board
276 two dollars.

277 45. Chapter fifty-one of the Code of Virginia, second edi-
278 tion, is hereby repealed.

AMENDMENT TO HOUSE BILL 117.

1 17. Every child born of a slave mother after the 4th day of
2 July, 1863, whether such mother be a slave for life or for a term
3 of years, may be bound out to the owner of such mother by the
4 overseer of the poor for the township where such owner resides,
5 as an apprentice or servant, in the manner and for the term pre-
6 scribed in section twenty of this act, for the minor children of
7 poor persons, unless such owner decline to have such child so
8 bound to him, in which case the owner of such mother shall
9 maintain such child until it attains the age of six years, unless
10 the mother sooner becomes free, when, in either case, the over-
11 seer of the poor for the township in which such child may be,
12 shall bind out such child to said owner if he shall consent there-
13 to, or to some other person, in the manner and for the term
14 aforesaid.

HOUSE BILL No. 118.

A BILL TO INCORPORATE THE WHEELING CREEK AND PENNSYLVANIA TURNPIKE COMPANY.

Be it enacted by the Legislature of West Virginia :

1 1. It shall be lawful to open books for receiving subscrip-
2 tions to an amount not exceeding thirty thousand dollars, to
3 be divided into shares of fifty dollars each, for the purpose of
4 constructing a grade of turnpike road, from a point near Mrs.
5 Lydia Cruger's, on the National Road, in Ohio county, and
6 thence along the ravine or valley of Wheeling Creek, to a
7 point on the line between the State of Pennsylvania and this
8 State, so as to connect with a road which may be made in the
9 said State of Pennsylvania.

10 The books shall be opened at the store house of R. S. Hop-
11 kins, Elm Grove, Ohio county, under the direction of said
12 Hopkins, Jacob Keller, Daniel Steenrod, Sherrard Clemens, R.
13 S. Buchanan, F. Ravenscraft, Albert Davis, James Downey,
14 Alex. Caldwell, James Ingraham, Jos. Sheppard, Wm. Mc-
15 Creary, or any one or more of them, and at such other places,
16 and under the direction of such agents as a majority of the
17 above named commissioners may appoint.

18 2. When the sum of five thousand dollars shall have been sub-
19 scribed, the subscribers, their executors, administrators, and as-
20 signs shall be incorporated into a company, by the name and style

21 of the Wheeling Creek and Pennsylvania Turnpike Company,
22 subject to the provisions of chapters fifty-seven and sixty-one of
23 the code ; but the said company shall have the privilege of mak-
24 ing the said road or any part thereof with gravel, sand, clay,
25 or plank, as to them shall seem most expedient. Said road
26 shall not be less than twelve feet in width, nor more than thir-
27 ty feet. Its grade shall in no case exceed four degrees ; and
28 the rates of toll shall not exceed those authorized by law, to be
29 collected on the Fairmont and Wheeling turnpike road, but
30 toll may be collected on that portion of said road, between
31 Mrs. Lydia Cruger's, and the Ellendale farm, now belonging
32 to said Clemens, and upon each section of five miles, as the
33 same may be completed between said point and the line of
34 Pennsylvania.

HOUSE BILL No. 119.

**A BILL MAKING AN APPROPRIATION TO
MACADAMIZE THE FETTERMAN AND
COVE TURNPIKE.**

Be it enacted by the Legislature of West Virginia:

1 1. The sum of two thousand dollars is here-
2 by appropriated out of any money in the treas-
3 ury not otherwise appropriated for the purpose
4 of Macadamizing the Fetterman and Cove Turn-
5 pike from the bridge across the Valley River at
6 Fetterman to Luzader's Mills, at the east end
7 of Grafton.

8 2. John W. Blue, Lewis Haymond, Charles
9 S. W. Kunst are hereby appointed commission-
10 ers to let to contract and superintend the Mac-
11 adamizing of said road; and upon their certifi-
12 cate that the contractor thereof has completed
13 the same, the Auditor is directed to issue his
14 warrant on the treasury for the said sum paya-
15 ble to their order.

HOUSE BILL No. 120.

**A BILL APPROPRIATING THE CAPITATION
TAX FOR THE YEARS 1861 AND 1862, FOR
EDUCATIONAL PURPOSES.**

Be it enacted by the Legislature of West Virginia:

1 1. The Auditor is hereby required to pay out
2 of any money in the treasury, to the several
3 counties of this State, the capitation tax of 1861
4 and 1862, as provided for by the act of the Gen-
5 eral Assembly of Virginia, passed January 30th,
6 1863.

HOUSE BILL N^o. 121.

A BILL TO REGULATE ELECTIONS BY THE PEOPLE.

Be it enacted by the Legislatures of West Virginia :

1 1. There shall be elected, on the fourth Thursday of October,
2 in the year eighteen hundred and sixty-four, and the same day
3 in every year thereafter, delegates for the several delegate dis-
4 tricts and counties not included in delegate districts ; and one
5 Senator for every senatorial district :

6 And on the fourth Thursday of October, in the year eighteen
7 hundred and sixty-four, and the same day in every second year
8 thereafter, a Governor, Secretary of the State, Treasurer, Au-
9 ditor, and Attorney General, for the State ; a representative
10 in the Congress of the United States for each congressional
11 district, for the term commencing on the fourth day of March
12 next after the election ; and a prosecuting attorney, surveyor
13 of lands, recorder, and the number of assessors prescribed by
14 law, for every county :

15 And on the fourth Thursday of October, in the year eigh-
16 teen hundred and sixty-six, and the same day in every fourth
17 year thereafter, a judge of the supreme court of appeals, for
18 the State ; and a clerk of the circuit court and sheriff, for every
19 county :

20 And on the fourth Thursday of October, in the year eigh-

21 teen hundred and sixty-eight, and the same day in every sixth
22 year thereafter, a judge for every circuit :

23 And on the Tuesday next after the first Monday of Novem-
24 ber, in the year eighteen hundred and sixty-four, and the same
25 day in every fourth year thereafter, or at such other
26 time as Congress shall prescribe, electors of President and
27 Vice President of the United States, for this State. At
28 least sixty days before the election for the said electors,
29 the Governor shall, by proclamation, to be published in
30 some newspaper printed in each county of this State where
31 any such paper is printed, give notice of the time for holding
32 such election and the number of such electors to be then
33 chosen.

34 2. The former election precincts and places of voting there-
35 in are hereby abolished ; and all elections shall be held at the
36 places to be appointed in the manner hereinafter prescribed for
37 holding the township elections.

38 3. The commissioners for each county named in the sched-
39 ule of the act passed July 31, 1863, entitled "An act to pro-
40 vide for the division into townships of the several counties of
41 the State," shall appoint some convenient place or places in
42 every township of their county for holding the first township
43 election ; and the board of supervisors of each county shall
44 thereafter, from time to time, appoint the places for holding
45 elections in the several townships of their county ; but all

46 township and other elections, shall be held at the places to be
47 appointed as aforesaid by the said commissioners, until the
48 board of supervisors shall otherwise order.

49 4. When a place for holding elections is appointed or chang-
50 ed by a board of supervisors, their clerk shall notify in writing
51 the clerk of the township interested, who shall file such notice
52 in his office, and immediately cause copies thereof to be con-
53 spicuously posted at the place appointed or changed, and at
54 two other public places in the township; and shall also give
55 notice thereof by advertisement in the newspapers, if there be
56 any, printed in the county.

57 5. The first township election shall be held in every town-
58 ship on such day as may be designated for the purpose by the
59 commissioners named in the said schedule for the county of
60 which such township is a part; and if from any cause, it be not
61 held on the day first appointed, the said commissioners may
62 designate another day therefor; and so again from time to
63 time, until the first township election be held. The commis-
64 sioners shall cause at least ten days notice to be given of the
65 time and place for holding such election by notices conspicu-
66 ously posted at three public places in each township, and also
67 by advertisement in the newspapers, if there be any printed in
68 the county. They shall appoint for each township, three prop-
69 er persons who are voters thereof, to act as temporary super-
70 visor and inspectors at the said election, and make due returns

71 thereof to the board of supervisors to be then elected for the
72 county; and the persons so appointed shall employ the neces-
73 sary clerks or writers. They shall also cause proper ballot boxes
74 poll books, tally-papers, and forms, and whatever else may be
75 necessary for holding the said first township election, and mak-
76 ing due returns thereof, to be provided, and furnished in prop-
77 er time at every place of voting in their county. If at the
78 time for holding the said election, any of the persons appoint-
79 ed to act as temporary supervisor or inspectors be absent, or
80 being present, fail or refuse to act as such, the other or others
81 of them may fill the vacancy; or if they all be absent, or fail
82 or refuse to act, or none have been appointed, the voters pre-
83 sent may appoint any three voters of the township as tempor-
84 ary supervisor and inspectors. If the commissioners named in
85 the said schedule for any county, fail to fix the place and time
86 for holding the said first township election in any township of
87 their county, then any three voters, residents of such township,
88 may, at any time after the first day of December in the present
89 year, fix the same, by giving the same notice thereof, as the
90 commissioners for the county are, in this section, directed to
91 give. All expenses properly incurred in carrying this section
92 into execution shall be certified by the said commissioners to
93 the Board of Supervisors of the county and be audited and paid
94 as provided in the fiftieth section of this act.

95 6. The annual township elections shall be held on the fourth

96 Thursday of April in the year eighteen hundred and sixty-four,
97 and the same day in every subsequent year; but if the first
98 township election be not held in any county before the fourth
99 Thursday of April next, it may be appointed and held after
100 that day, under and according to the preceding section.

101 7. At the said first township election, and every annual town-
102 ship election thereafter, the voters of each township shall elect
103 a supervisor, clerk of the township, surveyor of roads for each
104 road precinct in their township, an overseer of the poor, a
105 township treasurer, and two inspectors of election:

106 And at the said first township election, and the annual
107 township election to be held in the year eighteen hundred and
108 sixty-seven and every fourth year thereafter, they shall elect
109 a justice; and an additional justice, if the white population of
110 their township exceed twelve hundred.

111 And at the said first township election, and the annual
112 township election to be held in the year eighteen hundred and
113 sixty-five, and every second year thereafter, they shall elect
114 as many constables as justices.

115 8. The supervisors, clerks of the several townships, survey-
116 ors of roads, overseers of the poor, township treasurers, in-
117 spectors of election, justices and constables, to be elected at
118 the said first township election, shall respectively enter on the
119 discharge of their official duties as soon as they have taken
120 the proper oath of office and given bond, if any bond be re-

121 quired by law; but their terms of office shall expire as if the
122 same had commenced on the twentieth day of June last. The
123 terms of the said officers to be elected at the annual township
124 elections, shall commence on and include the twentieth day
125 of June next after the election at which they are chosen, and
126 continue for the periods prescribed by law. And the fourth
127 section of the schedule of the act passed September 25, 1863,
128 entitled "An Act providing for and regulating township
129 meetings and elections," is hereby repealed, so far as it is in-
130 consistent with this act.

131 9. Of the inspectors of election to be elected in each town-
132 ship, each voter shall vote for but one only, and if any vote
133 be given for more than one it shall not be counted as to the
134 said office; but the two persons receiving the highest number
135 of votes, if residents of the township and voters therein, shall
136 be declared elected.

137 10. Any inspector of election may be removed from office
138 by the Board of Supervisors of the county, for the same causes
139 and in the same manner as county officers are removable
140 by said board; two-thirds of the whole number elected to the
141 board concurring in such removal.

142 11. When there is a vacancy in the office of inspector of
143 election, the supervisor of the township shall order an election
144 to fill such vacancy, and cause the clerk of the township to
145 give notice thereof in the manner prescribed in the seventh

146 section of the act providing for and regulating township meet-
147 ings and elections, passed September 25, 1863.

148 12. If there be more than one place for holding elections
149 in any township, the supervisor and inspectors of election for
150 such township shall, from time to time, appoint suitable voters
151 residing convenient to such additional place to act as supervi-
152 sor and inspectors at the elections there to be held, and the
153 persons so appointed shall hold their office for the same term
154 as those who appointed them, and be removable by the Board
155 of Supervisors of the county in like manner as the inspectors
156 elected by the voters of the township.

157 13. The clerk of the Board of Supervisors of every county
158 shall, at the expense thereof, provide and furnish in proper
159 time at every place of voting in their county, proper ballot
160 boxes, poll books, tally papers and forms, and whatever else
161 may be necessary for holding the elections at such place and
162 making due returns thereof.

163 14. Every officer and person employed in holding any
164 election by the people, shall, before entering on the discharge
165 of his duties, take the following oath: "I solemnly swear that
166 I will support the Constitution of the United States, and the
167 Constitution of this State; and that in the election about to
168 be held I will faithfully and impartially discharge my duties,
169 to the best of my skill and judgment." The supervisor or any
170 one of the inspectors at any election, or of the persons act-

171 ing as such, may administer the said oath to the others, and
172 to the clerks or writers.

173 15. The supervisor and inspectors of elections, (which words
174 shall be construed to include those who act as such, tempor-
175 arily or otherwise,) shall superintend, conduct, and make re-
176 turns of all elections by the people held in their respective
177 townships during their term of office, whether for United
178 States, State, Circuit, District, County or township officers ;
179 elections for municipal and militia officers excepted.

180 16. If, at the time of election, the supervisor or either of
181 the inspectors be absent, or fail or refuse to act, or there be
182 a vacancy in either office, the other or others of them may
183 appoint a voter of the township to fill the place for the time ;
184 or if they all be absent, or fail or refuse to act, or none have
185 been elected or appointed, any three voters of the township
186 may be appointed by the voters present to act as supervisor
187 and inspectors of such election.

188 17. The clerk of the township, assisted by such person or
189 persons as the supervisor and inspectors may employ for the
190 purpose, shall record the names of the persons voting, and as-
191 sist in counting the votes, ascertaining the result and making
192 proper returns thereof. If the clerk be absent, or fail or re-
193 fuse to act, or there be no clerk then in office, the supervisor
194 and inspectors shall appoint a suitable person to discharge his
195 duties at the said election.

196 18. The supervisor shall preside at the election; and if there
197 be a difference of opinion between the inspectors, shall decide
198 between them. He shall preserve order at, and in the vicin-
199 ity of, the polls; and may direct any disorderly person to be
200 removed therefrom, and if necessary or proper, to be taken
201 and held in custody till sunrise of the next day, or for any
202 shorter time; which may be done by any constable of the
203 township, or other person or persons designated by the super-
204 visor, and no warrant or authority in writing shall be neces-
205 sary. And such offender, notwithstanding his having been
206 in custody as aforesaid, shall be liable to any penalty or pun-
207 ishment for his offence prescribed by law. And any person
208 who, being thereto commanded by the supervisor, either ver-
209 bally or in writing, shall fail or refuse to assist, to the utmost
210 of his power, in whatever may be necessary or proper to pre-
211 vent intimidation, disorder or violence at the polls, shall for-
212 feit not less than five nor more than fifty dollars.

213 19. The polls shall not be opened before sunrise, and shall
214 be closed at sunset. But at every township election, if there
215 be a township meeting on the same day, the polls shall be
216 opened at the hour of eleven, unless the business of the meet-
217 ing be sooner concluded or the same be sooner adjourned; in
218 which case the polls may be opened immediately thereafter.
219 If there be no township meeting on the same day, the town-
220 ship election shall commence at the hour of nine in the fore-

221 noon, or as soon thereafter as practicable. * In either case the
222 polls at the township elections shall continue open until sun-
223 set; but if the inspectors so direct, there may be a recess of
224 not more than one hour at such time, after the opening and
225 before the closing of the polls, as they may appoint.

226 20. All elections by the people shall be by ballot, and
227 shall, as far as practicable, be so conducted that it may not be
228 known at the polls for whom any person has voted.

229 21. The ballot box shall have an aperture in the lid or top
230 thereof to receive the ballots of the voters. While the polls
231 are open, it shall be kept where it may be seen by the voters,
232 and after the polls are closed, until the votes are counted and
233 the certificates of the result are signed, shall remain in the
234 immediate custody of the supervisor and inspectors, or of any
235 one of them, with the consent of the others. But it shall
236 not be opened unless the three be present; and if left at any
237 time in the custody of one of the number, it shall be careful-
238 ly sealed so that it cannot be opened without breaking the
239 seal, and the others shall write their names across the place
240 or places where it is sealed.

241 22. Every poll book shall bear on the first page thereof the
242 following heading: "Names of all persons voting at ———,
243 in the township of ——— and county of ——— this ———
244 day of ———." Two lists shall be kept at every election of
245 the names of the voters.

246 23. Every person wishing to vote at any election, shall of-
247 fer to one of the inspectors a single ballot of white paper
248 containing the names of the persons for whom he desires to
249 vote, and designating the office he wishes each of them to fill;
250 which ballot shall be so folded or rolled that its contents can-
251 not be seen. The inspector who receives the ballot shall pro-
252 claim distinctly the name of the person offering it, and hand
253 it to the other inspector; and if both inspectors, or when
254 they differ, one of them and the supervisor are satisfied the
255 ballot is single, and that the person offering it is entitled to
256 vote at the said election, one of the inspectors shall deposit
257 the ballot in the box, and the clerks shall enter the name of
258 the voter on the poll books. The supervisor and inspectors
259 may inspect every ballot before it is deposited in the box, to
260 ascertain whether it is single, but without unfolding or un-
261 rolling it so as to disclose its contents.

262 24. The supervisor and inspectors, at every election, shall
263 permit all persons to vote who are residents of their township,
264 and qualified to vote according to the first section of the third
265 article of the constitution; but every person present and of-
266 fering to vote shall, in time of war, insurrection, or public
267 danger, if required by any voter of the township, take, before
268 the supervisor or one of the inspectors, an oath that he will
269 support the Constitution of the United States and the Consti-
270 tution of this State; or produce to them the certificate of some

271 officer authorized to administer oaths that he has taken the
272 said oath; under pain of suspension of his right of voting.
273 And the supervisor or either of the inspectors is hereby au-
274 thorized to administer the said oath at the polls; and also to
275 swear any person to answer questions respecting any right to
276 vote which is claimed.

277 25. The supervisor and inspectors shall reject the ballots
278 of all persons not entitled to vote; but the name of every per-
279 son whose ballot is rejected, shall, if he require it, be entered
280 in a separate list on the poll books under the heading "Reject-
281 ed votes;" and the rejected ballot shall in such case be seal-
282 ed up in an envelope or cover, endorsed "The ballot of A B
283 rejected this——day of——" and be returned along with the
284 other ballots.

285 26. Any person entitled to vote in the township, who is
286 necessarily absent therefrom, on the day of any election in
287 the service of the United States or this State, may, at any
288 time within the twenty-five days next preceding the election,
289 endorse his ballot in an envelope or cover, and seal up the
290 same and write his signature in his own proper hand on the
291 outside of the said envelope or cover, and address the same
292 to the supervisor and inspectors of the township of which he
293 is a resident, or any one of the said officers, either by their
294 names or official designations, and transmit the same by mail
295 or otherwise. And if such envelope and enclosure be received

296 by the supervisor and inspectors or any one of them, on or
297 before the day of the election, it shall be produced at the
298 polls held in the said township; and if the inspectors, or when
299 they differ, the supervisor and one of the inspectors, be satis-
300 fied that the signature on the outside of the envelope or cover
301 is genuine, and that the person whose signature it is would,
302 if present, be entitled to vote at the said polls, they shall open
303 the envelope or cover, and if the ballot found therein be sin-
304 gle, shall deposit the same in the box without unfolding or
305 unrolling it so as to disclose its contents, to have the same
306 effect as if the person so transmitting his vote were personally
307 present giving the vote. And if such ballot be deposited in
308 the box, the clerks shall enter the name of such voter on the
309 poll books, adding thereto the word "absent." The envel-
310 opes or covers in all such cases shall be preserved by the su-
311 pervisor and inspectors, and be filed by them as soon as pos-
312 sible after the close of the polls with the clerk of the Board
313 of Supervisors of the county for public inspection.

314 27. No person in the military, naval or marine service of
315 the United States shall be deemed a resident of this State,
316 or of any county or township thereof, by reason of his being
317 stationed therein; and if any person be a resident of any
318 county or township at the time he enters such service, or the
319 service of this State, his residence, unless he makes known
320 his intention to change the same, shall be considered as con-

321 tinuing in the said county or township, during the said ser-
322 vice, although he be stationed or employed elsewhere.

323 28. As soon as possible after the polls are closed, the
324 names entered on the poll books shall be counted by the in-
325 spectors and clerks in the presence of the supervisor, and the
326 number thereof be set down in words at length at the foot of
327 the lists, which shall then be signed by the inspectors and
328 clerks. The ballot box shall then be opened, and one of the
329 inspectors, taking therefrom one ballot at a time, in the pres-
330 ence of all the other officers, shall read therefrom the desig-
331 nations of the offices to be filled, and the names of the persons
332 voted for for each office, and hand the ballot to the other in-
333 spector; who, if satisfied it was correctly read, shall string
334 it on a thread. The contents of the ballots as they are read
335 shall be entered by the clerks, under the supervision of the
336 supervisor and inspectors, on tally papers provided for the
337 purpose, by suitable marks made opposite to or under the
338 name of each person voted for, so as to show the number of
339 votes received by every person for any office to be filled.
340 The ballots shall be counted as they are strung upon the
341 thread; and whenever the number shall be equal to the num-
342 ber of the voters entered on the poll books, the excess, if any,
343 remaining in the ballot box shall be immediately destroyed,
344 without unfolding or unrolling the same or allowing any one
345 to examine or know the contents thereof.

346 29. If two or more ballots be found folded or rolled to-
347 gether, they shall be rejected and immediately destroyed.
348 And if any ballot be found to contain more than the proper
349 number of names for any office, it shall not be counted as to
350 the said office. In any election for senator, or delegate for
351 a delegate district, if a person be voted for in any ballot who
352 is not a resident of the proper county, as required by the
353 fourth and eleventh sections of the fourth article, of the con-
354 stitution, the ballot shall not be counted for the said office;
355 or if two or more persons are to be chosen as delegates for a
356 delegate district, or for two counties voting together, and it
357 is required by the constitution that they should be residents
358 of different counties, but the persons voted for be residents of
359 the same county, the ballot shall not be counted in favor of
360 either of the said persons. No mistake or error in the de-
361 signation of the office or person voted for in any ballot, shall
362 vitiate the same or cause it to be rejected, if it be manifest
363 what was intended by the voter.

364 30. As soon as the results are ascertained, the inspectors
365 shall sign two certificates thereof to the following effect:
366 "We, the undersigned, who acted as inspectors of the elec-
367 tion held at——, in the township of——and county of
368 ——, on the——day of——, do hereby certify that, hav-
369 ing been first duly sworn, we have fairly and impartially held
370 the said election according to law, and the result thereof is

371 as follows: For the office of" (here designate the office, as
 372 for example, "Delegate for the county of Barbour," or "Del-
 373 egate for the first Delegate district," or "Senator for the first
 374 Senatorial district," "Judge for the first Circuit," "Repre-
 375 sentative in the Congress of the United States for the first
 376 Congressional district," "Governor of the State," Judge of
 377 the Supreme Court of Appeals, "Supervisor of the said town-
 378 ship," and so forth, as the case may be,) "A B received—
 379 votes, C D——votes, and E F——votes," and so on through-
 380 out, stating according to the truth the full name of every per-
 381 son voted for for every office, and in words at length the num-
 382 ber of votes he received for the same; and concluding as
 384 follows: "Given under our hands this——day of——."
 385 The said two certificates shall correspond in all respects with
 386 each other, and each shall contain complete returns of the
 387 polls taken at the said place of voting for every office to be
 388 filled. When the said certificates are signed, the ballots, in-
 389 cluding the rejected ballots sealed up as provided by the
 390 twenty-fifth section of this act, shall be enclosed by the inspec-
 391 tors in an envelope or cover, which they shall seal up, and
 392 write their names across the place or places where it is sealed,
 393 and endorse on the outside of the said envelope or cover as
 394 follows: "Ballots of the election held at——in the township
 395 of——and county of——the——day of——." The inspec-
 396 tors, or one of them, shall, within three days, excluding Sun-

397 days, after the day on which the election was held, deliver
398 the ballots so sealed up, one set of the poll books, and one of
399 the said certificates, to the clerk of the Board of Supervisors
400 of their county, and the other certificate and set of the poll
401 books to the Recorder of the county.

402 31. The Board of Supervisors of each county shall be the
403 judges of the election, qualifications and returns of their own
404 members, and of all county and township officers. They shall
405 convene on the twelfth day after every election held in their
406 county, or any township thereof, and their clerk shall lay before
407 them the ballots, poll books, inspectors' certificates, and the
408 envelopes which contained the ballots of absent voters, deliv-
409 ered to him as aforesaid. They may, if deemed necessary,
410 require the attendance of any of the inspectors or other offi-
411 cers or persons present at the election, to answer questions
412 under oath respecting the same, and may demand the produc-
413 tion of the poll books and certificates concerning the said elec-
414 tion filed in the office of the Recorder; and take such other
415 order as shall seem proper to procure correct returns and as-
416 certain the true result of the said election in their county.
417 They may adjourn from day to day, as in other cases; and
418 when a majority of the board is not present, their meeting
419 shall stand adjourned till the next day. They may open and
420 examine any of the sealed packages of ballots; but in such
421 case they shall seal up the same again, along with the origi-

422 nal envelope or cover, in another envelope or cover, and their
423 presiding officer or clerk shall write his name across the place
424 or places where it is sealed, and endorse on the outside "Ballots
425 of the election held at——, in the township of——and
426 county of——the——day of——." When they have
427 made their certificates and declared the result as hereinafter pro-
428 vided, they shall deposit the envelopes of absent voters and
429 the sealed packages of ballots in the office of the recorder.

430 32. When an election is held for any of the following offi-
431 cers, that is to say: Prosecuting attorney, surveyor of lands,
432 recorder, assessors, clerk of the circuit court, and sheriff; or
433 supervisor, clerk of the township, surveyor of roads, overseer
434 of the poor, township treasurer, inspectors of election, justice
435 and constable; the board of supervisors of the county, at a
436 meeting held pursuant to the last section, shall declare by res-
437 olution or resolutions entered on their journal, who are elect-
438 ed and to what offices; except in cases where notice in wri-
439 ting has been previously filed with their clerk, or is presented
440 at such meeting before the resolution is passed, of the inten-
441 tion of any person voted for at such election for any office to
442 contest the election of any person appearing to have received
443 a higher number of votes than the contestant for such office,
444 or where notice is given as aforesaid by any voter of his in-
445 tention to contest the qualifications of any person appearing
446 by the returns to be elected. In such cases, no declaration

447 of the result shall then be made; but the board shall appoint
448 a day, not less than five nor more than twenty days thereafter,
449 when they will hear and consider such written depositions ta-
450 ken on behalf of either party on due notice to the other, and
451 such documentary evidence, as may be produced. They may
452 continue the hearing from time to time, if it be shown that
453 justice and right requires it, but not beyond the twentieth day
454 after the day first appointed for the hearing; and after they
455 have heard as aforesaid the evidence, they shall in like man-
456 ner declare the result in the contested cases. The cost of
457 each deposition or set of depositions, and of each official
458 copy, to be used in evidence in such case, shall be noted
459 thereon by the officer taking the depositions or furnishing the
460 copy; and the board may direct what amount of the said
461 costs and of the costs of serving notices, either party is enti-
462 tled to recover from the other; and the amount so certified,
463 if not paid within ten days, may be recovered before any
464 court or justice having jurisdiction.

465 33. When the result of an election is declared by the
466 Board of Supervisors pursuant to the last section, the said
467 board shall cause a copy of the resolution, signed by their
468 presiding officer and clerk, to be delivered, if demanded, to
469 each person thereby declared to be elected; and such copy
470 shall be received in all courts and places as legal evidence of
471 the result of the election therein declared.

372 34. In any county where there is not at the time a Board
 473 of Supervisors, the persons lawfully acting as supervisors of
 474 the election within the county, or a majority of them, may
 475 convene on the twelfth day after the election, and act as such
 476 Board under and pursuant to the last three sections.

477 35. When an election is held in a county for any of the
 478 following offices, that is to say: For Delegate, Senator,
 479 Governor, Secretary of the State, Treasurer, Auditor, Attor-
 480 ney General, Judge of the Supreme Court of Appeals, Judge
 481 for a Circuit, Representative in the Congress of the United
 482 States, and Electors of President and Vice President of the
 483 United States, the Board of Supervisors of such county, un-
 484 der the regulations prescribed in the thirty-first section of this
 485 act, shall carefully and impartially ascertain the result of the
 486 said election in their county, and cause to be signed by their
 487 presiding officer and clerk, as many certificates thereof as may
 488 be necessary, to the following effect:

489 "The Board of Supervisors of the county of———having
 490 carefully and impartially examined the returns of the election
 491 held on the———day of———, do hereby certify that, in
 492 the said county, for the office of———A B received———
 493 votes, C D———votes, and E F———votes. In witness
 494 whereof, the said board have caused this certificate to be sign-
 595 ed by their president and clerk, this———day of———."

496 The said board shall cause separate certificates to be sign-

ed of the result of the election within their county for each of the offices specified in this section which is to be filled ; and in the said certificates shall set forth according to the truth the full name of every person voted for, and in words at length the number of votes he received for any office.

36. The certificates of the Board of Supervisors made pursuant to the preceding section, shall be by them disposed of as follows :

Of the certificates respecting the election for Delegate or Delegates, they shall transmit one to the clerk of the House of Delegates at the seat of Government ; who shall submit the same to the House as soon as it shall thereafter assemble, together with a list of persons appearing thereby to be elected. The said board shall also deliver one, if demanded, to each person appearing to them to have been elected as Delegate :

Of the certificates respecting the election for senator, they shall transmit one to the clerk of the Senate at the seat of government, to be submitted by him to the Senate as soon as it shall thereafter assemble, together with a list of persons appearing thereby to be elected :

Of the certificates respecting the election for governor, they shall transmit one to the secretary of the State at the seat of government, endorsing on the envelope or cover as follows :
"Returns of the election for Governor ;" and stating thereon

524 the aggregate vote in the county for each candidate. The
525 secretary of the State shall deliver the same unopened to the
526 speaker of the House of Delegates on the first day of the
527 next session of the Legislature; and the speaker shall within
528 ten days thereafter, in the presence of a majority of each
529 branch of the Legislature, open the said returns, when the
530 votes shall be counted. The person having the highest num-
531 ber of votes, if duly qualified, shall be declared elected; but
532 if two or more have the highest and an equal number of votes,
533 one of them shall thereupon be chosen Governor by the joint
534 vote of the two branches:

535 Of the certificates respecting the election of the secretary
536 of the State, treasurer and auditor respectively, they shall in
537 each case transmit one to the secretary of the State, endor-
538 sing on the envelope or cover that it is returns of the election
539 for secretary of the State, auditor or treasurer, as the case
540 may be, and stating thereon the aggregate vote in the county
541 for each candidate; and the same shall be delivered unopen-
542 ed to the Speaker of the House of Delegates on the first day
543 of the next session, to be acted upon by the Legislature in
544 like manner as the returns of the election for Governor:

545 Of the certificates respecting the election for attorney gen-
546 eral, judge of the supreme court of appeals, judge for a cir-
547 cuit, representative in the Congress of the United States, and
548 electors of President and Vice President of the United States,

549 respectively, the board of supervisors shall transmit one in
550 each case to the Governor, who shall ascertain who are elect-
551 ed and make proclamation thereof. The judges and attorney
552 general shall also be commissioned by the Governor.

553 In every case the said certificates shall be transmitted as
554 aforesaid by mail or some safe and expeditious conveyance to
555 the proper officer, on or before the fifteenth day after the
556 election, in an envelope or cover under seal, the presiding of-
557 ficer or clerk of the board of supervisors, writing his name
558 across the place or places where it is sealed.

559 A duplicate of every such certificate shall also be filed in
560 the office of the recorder of the county for public inspection.

561 37. Whenever the Governor, Senate or House of Delegates,
562 for any reason deem it proper, they may, by special messen-
563 ger or otherwise, send for and procure proper returns from
564 any county or counties; and the poll books, ballots and cer-
565 tificates of the inspectors and board of supervisors, and the
566 envelopes of absent voters, deposited in the offices of the re-
567 corder shall be at all times subject to the order of the Gover-
568 nor or of either branch of the Legislature.

569 38. The Governor shall, if demanded, give a certificate un-
570 der his hand and the great seal of the State to every person
571 elected a Representative in the Congress of the United States,
572 or an elector of President and Vice President of the United
573 States, which certificates respectively shall be to the follow-
574 ing effect:

575 "State of West Virginia, to-wit:

576 I,——Governor of the said State, pursuant to the act
577 of the Legislature thereof in such case made and provided, do
578 hereby certify that A B of the county of——was duly
579 chosen on the——day of——a Representative in the Con-
580 gress of the United States, for the——Congressional dis-
581 trict of this State composed of the counties of——for the
582 term commencing on the fourth day of March next. (or, "for
583 the unexpired term ending on the third day of March——"
584 as the case may be,) "Given under my hand and the great
585 seal of the said State of West Virginia, this——day of——."

586 "State of West Virginia, to-wit:

587 I——Governor of the said State, pursuant to the act
588 of the Legislature thereof in such case made and provided,
589 do hereby certify that A B of the county of——, C D of
590 the county of——, (and so on, stating the full name of
591 every person elected and the county in which he resides,)
592 were duly appointed by this State, at an election held therein
593 on the——day of——, Electors of President and Vice Presi-
594 dent of the United States. Given under my hand and the
595 great seal of the said State of West Virginia, this——day
596 of——."

597 39. The persons chosen as electors of President and Vice
598 President of the United States shall meet in the office of the
599 Governor at the seat of Government of this State, on the first

600 Wednesday of December, in the year eighteen hundred and
 601 sixty-four, and the same day in every fourth year thereafter,
 602 or such other day as Congress shall prescribe, and then and
 603 there give their votes, and make, certify and transmit lists
 604 thereof, in the manner prescribed by the Constitution and
 605 laws of the United States. If any of the said electors so
 606 chosen fail to attend by the hour of ten in the forenoon of the
 607 said day, the electors present shall supply the vacancy, by
 608 appointing an elector in place of each one so failing to attend;
 609 and every elector so appointed shall be entitled to vote in the
 610 same manner as if he had been originally chosen by the peo-
 611 ple.

612 40. Every elector of President and Vice President of the
 613 United States, shall be entitled to the same pay and mileage
 614 that is allowed to members of the Legislature, to be paid out
 615 of the Treasury of the State.

616 41. When any senator shall be chosen by the Legislature
 617 to represent this State in the Senate of the United States,
 618 the clerk of the House of Delegates shall give information of
 619 the same to the Governor, who shall cause a credential to be
 620 made out to the following effect :

621 "State of West Virginia, to wit :

622 The Legislature of this State having, on the——day of——
 623 in pursuance of the Constitution of the United States, cho-
 624 sen A. B., of the county of——, a senator from this State for

625 six years, beginning on the fourth day of March, in the year
 626 ———,” (or “for such term as may be assigned to him according
 627 to the said constitution;” or, “to fill the vacancy which has
 629 happened by the death,” “resignation,” or otherwise, “of C.
 630 D.”) “I ——— Governor of the State of West Virginia,
 631 do hereby certify the same to the Senate of the United
 632 States. Given under my hand and the great seal of the said
 633 State, this ——— day of ———.” The Governor shall ac-
 634 cordingly sign the said credential, and cause the great seal of
 635 the State to be fixed thereto, and deliver the same to the sen-
 636 ator so chosen.

637 42. When a vacancy shall happen during the recess of the
 638 Legislature in the representation from this State in the Sen-
 639 ate of the United States, and the executive shall make a
 640 temporary appointment to fill such vacancy, the Governor
 641 shall cause a credential, under his hand and the great seal of
 642 this State, to be delivered to the person so appointed, to the
 643 following effect:

644 “State of West Virginia, to wit:

645 A. B., who was according to the Constitution of the Uni-
 646 ted States a Senator from this State for the term ending on
 647 the third day of March, in the year ——— having died,”
 648 (“resigned,” or otherwise as the case may be,) “during the
 649 recess of the Legislature, I ——— Governor of the State of
 650 West Virginia, do by virtue of the said constitution appoint

651 C. D. of the county of ———, a Senator from this State in
652 the Senate of the United States until the next meeting of the
653 Legislature. Given under my hand and the great seal of the
654 said State, this ——— day of ———.”

655 43. Elections to fill vacancies shall be for the unexpired
656 term; and shall be held at the same places as other elections,
657 and be superintended, conducted and returned, and the re-
658 sults ascertained, certified and declared in the same manner,
659 and by the same officers.

660 44. When a vacancy exists in the office of Judge of the
661 Supreme Court of Appeals or of any Circuit, or Secretary of
662 the State, Auditor, Treasurer or Attorney General, or in the
663 representation from this State in the Congress of the United
664 States, the Governor shall, within ten days after the fact
665 comes to his knowledge, give notice thereof by proclamation
666 to be published in such newspapers printed in the State as he
667 may deem best calculated to give information thereof to the
668 voters of the State, Circuit or District; and in the said pro-
669 clamation he shall appoint some day, not less than thirty nor
670 more than sixty days from the date thereof, for holding the
671 election to fill such vacancy; which election shall be held ac-
672 cordingly. In the case of a vacancy in the office of Repre-
673 sentative in Congress, he shall also issue writs of election di-
674 rected to the sheriffs of the several counties included in the
675 Congressional district; and every sheriff, on receiving the same,

676 shall immediately give notice thereof to the supervisors and
677 inspectors of election of the several townships of his county.

678 45. A writ of election to fill a vacancy in the Legislature
679 shall be issued by the Governor when the vacancy occurs du-
680 ring the recess of the Legislature, and by the President of the
681 Senate or Speaker of the House of Delegates, as the case
682 may be, when such vacancy happens during the session, or
683 has not been previously filled. The said writ shall be direct-
684 ed to the sheriff of the proper county, or to the sheriffs of the
685 several counties included in the delgate or senatorial district,
686 as the case may be, and shall prescribe the day of election;
687 and every sheriff, on receiving the same, shall immediately
688 give notice thereof to the supervisors and inspectors of elec-
689 tion of the several townships of his county; and shall also
690 cause notice of the same to be conspicuously posted at every
691 place of voting in such county, and to be published in the
692 newspapers, if there be any, printed therein.

693 46. When a vacancy exists in the office of clerk of the
694 circuit court, sheriff, prosecuting attorney, surveyor of lands
694 or recorder, the judge of the circuit to which the county be-
695 longs, shall, within ten days after the fact comes to his knowl-
696 edge, issue a writ of election to fill the vacancy, to be directed
697 and proceeded with in the manner prescribed by the last sec-
698 tion; and in the meantime may, if deemed necessary, fill the
699 office by a temporary appointment to expire when the person

700 to be elected to the said office shall be duly qualified to act.

701 The bond to be given by the officer so temporarily appointed

702 shall be in such penalty as the judge may prescribe, or may

703 be dispensed with, if he shall so order.

704 47. When a vacancy exists in the office of assessor, super-

705 visor, clerk of the township, surveyor of roads, township

706 treasurer, overseer of the poor, justice or constable, the board

707 of supervisors of the county, as soon as they have information

709 of the fact, shall order an election to fill the vacancy, giving

710 at least ten days' notice thereof by notices conspicuously

711 posted at three public places in each township or townships

712 concerned, and also by advertisement in the newspapers, if

713 there be any, printed in the county.

714 48. Every officer, during his term of office, shall reside in

715 the township, county, district or circuit for which he was elect-

716 ed; and if he remove therefrom, or if any officer remove

717 from the State, the office shall be thereby vacated; but this

718 provision shall not apply to Senators and Representatives in

719 Congress.

720 49. When the Governor or a Board of Supervisors are to

721 declare the result of an election, and it shall appear to them

722 that two or more of the persons voted for have received an

723 equal number of votes, so that the proper number is not elect-

724 ed, they shall decide the tie by electing one of the said persons.

725 50. Every supervisor and inspector of election, shall be al-

726 lowed one dollar and fifty cents for each day, and every clerk
727 or writer one dollar for each day, they shall be necessarily
728 employed in holding elections and making returns thereof;
729 which allowances, together with the cost of the ballot boxes,
730 poll books and forms, and all expenses of holding elections
731 in any county, whether for township, county, or other officers,
732 shall be audited by the board of supervisors, and paid out of
733 the county treasury, as other claims or demands against the
734 county.

735 51. When the seal of the State is affixed to any certificate
736 or commission required by this act, no tax or fee shall be
737 charged therefor.

738 52. If any officer fail to perform any duty required of him
739 by this act, and there is no other penalty or punishment im-
740 posed for such failure, he shall forfeit not less than five nor
741 more than fifty dollars for every such offence.

742 53. If any supervisor or inspector of election fail or re-
743 fuse, without sufficient cause, to attend at the proper time and
744 place for holding any election which it is his duty to assist in
745 holding, he shall forfeit not less than five nor more than thirty
746 dollars for every such offence.

747 54. If any officer whose duty it may be to assist in holding
748 an election, being present at the time and place for holding
749 the same, refuse to do so when required by a candidate or
750 voter; or if any officer neglect or refuse to deliver the bal-

751 lots, poll books, envelopes of absent voters, or certificates, as
752 required by law, or to make returns in the manner and at the
753 time prescribed by law, he shall forfeit for every such offence
753½ not less than ten nor more than one hundred dollars.

754 55. If an officer at an election knowingly and wilfully re-
755 ceive a bad vote or reject a good one, or aid in so doing, he
756 shall forfeit not less than fifty nor more than two hundred
757 dollars for every such offence.

758 56. If an inspector of election make or sign, or assist in
759 in making any false certificate or return respecting an elec-
760 tion, knowing the same to be false; or if a member of a
761 board of supervisors, assist or concur in making any false
762 certificate, declaration or return respecting an election, know-
763 the same to be false, they, and every person aiding or abet-
764 ting therein, shall each forfeit not less than three hundred nor
765 more than one thousand dollars for every such offence.

766 57. No person shall vote more than once in the same elec-
767 tion; and he shall not vote a second time, although he may
768 not have voted the first time for as many persons or offices as
769 he might have lawfully voted for.

770 58. If any person knowingly shall vote when not legally
771 entitled; or vote more than once in the same election; or
772 procure or assist in procuring a bad vote to be admitted or re-
773 ceived at an election, knowing the same to be bad; or a good
774 vote to be rejected, knowing the same to be good; he shall

775 forfeit not less than thirty nor more than one hundred dollars
776 for every such offence.

777 59. Any person who shall knowingly procure or attempt to
778 procure a false, counterfeit or altered ballot to be admitted or
779 received at an election, as and for the true ballot of a person
780 absent in the service of the United States or this State, or
781 knowingly aid, counsel or abet another or others in so doing ;
782 or procure or attempt to procure a ballot to be admitted or
783 received at an election as and for the ballot of a person ab-
784 sent in the service of the United States or of this State,
785 knowing that such person is not, within the meaning of this
786 act, entitled to vote at the said election ; or knowingly aid,
787 counsel or abet another or others in so doing ; shall forfeit not
788 less than thirty nor more than one hundred dollars for every
789 such offence.

790 60. If any person directly or indirectly, give or promise
791 to another, or convey, deposit or transfer for the use of an-
792 other, any money or property, under an agreement, express
793 or implied, that such other person shall vote or attempt to,
794 vote for a particular candidate or candidates at any election,
795 the person so giving, promising, conveying, depositing or
796 transferring the money or property, and the person so
797 agreeing to vote or attempt to vote, shall each forfeit not less
798 than fifty nor more than two hundred dollars for every such
799 offence.

800 61. If any person bet or wager money or other thing over
801 the value of five dollars on any election to be held under au-
802 thority of the Constitution and laws of this State or of the
803 United States, he shall forfeit the value of such money or other
804 thing, and fifty dollars in addition thereto, for every such offence.

805 62. If any person, who is a candidate for any office under
806 the Constitution and laws of this State, shall, himself or by
807 another, offer to or distribute among the voters gratuitously
808 any intoxicating drink on the day of the election, he shall,
809 if elected, forfeit his office and on proof of the fact be re-
810 moved therefrom.

811 63. Every place at which intoxicating liquors are sold shall
812 be kept closed on the day when any election is to be held
813 within one mile thereof. And if any person, whether licensed
814 to sell intoxicating liquors or not, sell or offer or expose for
815 sale any such liquor, or keep open any bar, office, stall or
816 room in his possession or under his control at which such li-
817 quor had usually been sold, or permit any person not a mem-
818 ber of his own household to enter or visit the same, on the
819 day of an election and within one mile of the place of such
820 election, or during the night succeeding such day, he shall
821 forfeit not less than ten nor more than fifty dollars for every
822 such offence.

823 64. The twenty-seventh and twenty-eighth sections of the
824 seventeenth chapter of the Code of Virginia, second edition ;

825 the eleventh and fortieth sections of the one hundred and
826 ninety-eighth chapter; and the fourth, fifth, sixth, seventh,
827 eighth, ninth and eleventh chapters of the said Code, are here-
828 by repealed.

HOUSE BILL No. 122.

A BILL TO AUTHORIZE THE RECOVERY OF DAMAGES WHERE DEATH IS CAUSED BY THE WRONGFUL ACT OR DEFAULT OF ANOTHER.

Be it enacted by the Legislature of West Virginia :

1 1. Whenever the death of a person shall be caused
2 by wrongful act, neglect, or default; and the act, neg-
3 lect or default is such as would, (if death had not en-
4 sued,) have entitled the party injured to maintain an
5 action, and recover damages, in respect thereof; then,
6 and in every such case, the person who, or the corpo-
7 ration which would have been liable, if death had not
8 ensued, shall be liable to an action for damages, not-
9 withstanding the death of the person injured, and al-
10 though the death shall have been caused under such
11 circumstances as amount in law, to murder in the first
12 or second degree, or manslaughter.

13 2. Every such action shall be brought by and in the
14 name of the personal representatives of such deceased
15 persons; and the amount recovered in every such ac-
16 tion, shall be for the exclusive benefit of the widow,

17 and next of kin of such deceased person, and shall be
18 distributed to such widow and next of kin in the pro-
19 portions provided by law, in relation to the distribu-
20 tion of personal estates, left by persons dying intestate,
21 and in every such action the jury may give such dama-
22 ges as they shall deem fair and just, not exceeding five
23 thousand dollars, with reference to the pecuniary injury
24 resulting from such death, to the wife and next of kin
25 to such deceased person; provided, that every such
26 action shall be commenced within two years after the
27 death of such deceased person.

HOUSE BILL No. 123.

A BILL DECLARING CERTAIN COMBINATIONS UNLAWFUL.

Be it enacted by the Legislature of West Virginia :

1 1. It shall not be lawful for any three or more per-
2 sons engaged in the same trade or occupation, to com-
3 bine to enhance unduly to the community in which they
4 reside, the costs of the products of their trade or oc-
5 cupation, if in such combination they use threats, vio-
6 lence, or bribes, to induce others engaged in like trade
7 or occupation, to unite in such combinations. All meet-
8 ings of such persons for such purposes, shall be treated
9 as unlawful assemblies, and be proceeded against in the
10 manner prescribed in chapter 195 of the Code of Vir-
11 ginia, edition of eighteen hundred and sixty.

12 2. If any person make an affidavit before a justice
13 of the peace, that he has good reason to believe that
14 persons are making such combinations as are described
15 in the preceding section, it shall be the duty of such
16 justice immediately to issue his warrant, requiring all

17 such persons to be brought before him, and when so
18 brought, he shall examine into the charge, and if there
19 be sufficient evidence to sustain the same, he shall re-
20 quire all such persons to enter into recognizance as is
21 provided for in the second section of the before men-
22 tioned act; and on conviction, before the circuit court,
23 of the said offence, he or they may be fined or impris-
24 oned, or both, by the judge of said court, at his dis-
25 cretion.

HOUSE BILL No. 125.

A BILL TO EXTEND THE CORPORATE LIMITS OF THE TOWN OF PARKERSBURG.

Be it enacted by the Legislature of West Virginia:

- 1 1. The corporate limits of the town of Parkersburg, in the
2 county of Wood, are hereby so extended as to include all the
3 land lying between the Ohio and Little Kanawha rivers, to the
4 south and west of a line beginning on the Ohio river at a line be-
5 tween lands now or late of Albert G. Leonard and Tillinghast A.
6 Cook, and running thence, with the said line and an extension
7 thereof to a line of lands now or late of James M. Stephenson,
8 and thence, with the last mentioned line to the Little Kanawha
9 river; and all the land lying between the said rivers and to the
10 south and west of the above described line, not heretofore a part
11 of the said town is hereby annexed thereto, and made part thereof.
- 12 2. The land so annexed to the said town, and the inhabitants
13 thereof, are hereby made subject to the jurisdiction of the coun-
14 cil of the said town, as fully as the present town and its inhabi-
15 tants are now subject thereto; and shall be governed by all the
16 provisions of the original charter of the said town, and the acts
17 amendatory thereof, so far as the same are now of force, except
18 as hereinafter excepted.

19 3. No part or parcel of the land hereby annexed to the
20 said town, now used exclusively for farming, grazing, pasturing
21 or other agricultural purpose, shall be assessed with, or be liable
22 for, any taxes levied for the use of the said town, or the council
23 thereof, unless, or until, such part or parcel has been, or shall
24 hereafter be, laid off into streets and lots, and such lots have
25 been, or shall hereafter be, sold, or offered for sale, by the own-
26 er or owners thereof.

27 4. No building now or hereafter erected on the land so annex-
28 ed to the said town, shall be taxed by the said town or the coun-
29 cil thereof, unless the same fronts on some street, alley, road or
30 turnpike, by which such building is accessible from the present
31 limits of the said town; but where any building is so situated,
32 the same, and not exceeding one acre of land connected there-
33 with and appropriated to the purposes thereof, or of its occu-
34 pants, may be assessed according to its value, and the owner or
35 occupier thereof charged with such taxes or levies thereon as
36 may be lawfully imposed by the said council; but the rate of
37 taxation so charged shall not exceed one-half of the rate at the
38 same time charged against similar property within the present
39 limits of the said town.

40 5. Whenever the said council shall cause any side walk or any
41 part thereof, on any street, road or turnpike that is now or may
42 hereafter be opened through any part of the land hereby annex-

43 ed to the said town, to be graded and the curbstone thereof to
44 be set or placed on one or both sides of such street, road or turn-
45 pike, all the land on both sides thereof, so far as the said grad-
46 ing and curbing extends, to the depth of one tier of lots on
47 either side, may at the next or any subsequent assessment of the
48 property of the said town, be assessed according to its value, and
49 thereafter taxed at the same rate as similar property within the
50 present limits of the said town is or may be taxed.

51 6. So much of any turnpike in which the State is interested,
52 as lies within the said extension, is hereby to the extent of such
53 interest, ceded and relinquished to the said town, upon condi-
54 tion that the said town shall keep the same in good order and
55 repair, and shall not, at any time, charge or receive any toll or
56 other compensation for passage or transportation over the same.
57 The said council, having acquired the necessary land for the pur-
58 pose, may alter the location of so much of any turnpike or of
59 any public road as lies within the said extension, in order to
59 conform the same to the general plan of the said town, or for
60 any other public purpose. They shall also cause all the streets
61 and public roads lying within the same, to be kept in good or-
62 der and condition; but this shall not apply to any street or road
63 hereafter opened or dedicated to the public within the said ex-
64 tension by private persons, unless the said council shall have
65 first accepted such street or road as a street of the said town.

66 7. As soon as practicable after the passage of this act, the said
67 council shall cause the exterior line of the said town from river
68 to river, as described in the first section of this act, to be accu-
69 rately surveyed, if necessary, and designated on the ground by
70 suitable marked objects or monuments, and two accurate maps
71 or plats of the land hereby annexed to the said town to be made,
72 one of which shall be retained by them, and the other deposited
73 in the office of the recorder of the county of Wood, and be there
74 recorded at the expense of the said town.

HOUSE BILL No. 126.

A BILL TO AMEND THE ACT PROVIDING FOR THE FORMATION OF CORPORATIONS AND REGULATING THE SAME.

Be it enacted by the Legislature of West Virginia:

- 1 1. Any existing corporation which shall, under the twelfth
2 section of the act providing for the formation of corporations
3 and regulating the same, passed October 26th, 1863, accept the
4 provisions of the said act, may change the par value of its
5 shares as the stockholders thereof in general meeting may de-
6 termine, subject to the regulation contained in the third section
7 of the said act; and in such case, the statement to be filed with
8 the Secretary of the State under the said twelfth section shall
9 show the proposed par value of each share.
- 10 2. The stockholders of any corporation which may be formed
11 under the said act or accept the provisions thereof may, by-law,
12 adopted in general meeting, provide, that every share of stock
13 shall have one vote in meetings of the stockholders, notwith-
14 standing any thing to the contrary contained in the twenty-se-
15 ond section of the said act.
- 16 3. If the stockholders of any corporation now existing in this
17 State, excepting banks of circulation and companies incorpora-
18 ted for the construction of works of internal improvement; or
19 of any corporation which may be formed under the said act, desire

20 to increase the amount of its capital stock or change the par
21 value of its shares, and shall pass in general meeting, a resolu-
22 tion to that effect, stating the proposed increase or change, the
23 president of the corporation shall thereupon, under his signa-
24 ture and the common seal of the said corporation, certify the
25 resolution to the Secretary of the State; and the Secretary, un-
26 der his hand and the great seal of this State, shall issue a cer-
27 tificate reciting the said resolution, and declaring the proposed
28 increase or change to be authorized in law; which certificate
29 shall be received in all courts and places as legal evidence of the
30 change in the par value of the shares or the authority to increase
31 the capital stock, therein declared. But the capital stock shall
32 not be thereby increased so as to exceed in the whole one million
33 of dollars, and the par value of the shares shall be subject to
34 the regulation contained in the third section of the said act.

HOUSE BILL No. 127.

A BILL PROVIDING FOR THE CONSTRUCTION AND REPAIR OF ROADS AND BRIDGES.

Be it enacted by the Legislature of West Virginia :

1 1. The board of public works shall continue to have the
2 supervision and control of the States' interest in the State
3 roads, turnpikes and bridges owned in whole or in part by the
4 State. They shall have power, by obtaining the consent of
5 the board of supervisors, to transfer any such road, bridge or
6 turnpike to the county in which such road, turnpike or bridge
7 may be. Such transfer shall be made by formal resolution to
8 be entered on the record of the board of public works, and a
9 copy of the same transmitted by the secretary of the board to
10 the clerk of the board of supervisors, for record in each coun-
11 ty or counties where such road, turnpike or bridge may be.

12 2. The private stockholders in any turnpike, road or bridge
13 in which the State's interest has been transferred in accord-
14 ance with the preceding section, with the consent of the board
15 of supervisors of such county, may likewise, in lawful meeting
16 of said stockholders, transfer and convey the interests of the
17 stockholders, other than the State, to the county or counties
18 as aforesaid, by a process similar to that by which the State's

19 interest is conveyed; provided, the board of public works shall
20 not transfer any road, turnpike or bridge that can, in their
21 opinion, be made productive or self-sustaining.

22 3. The board of supervisors of each county shall have power
23 to provide for establishing, keeping in repair, changing the lo-
24 cation of, or vacating, and keeping a record of all the county
25 and township roads in their respective counties, subject to the
26 provisions of this act.

27 4. Previous to any petition being presented for the establish-
28 ment of, altering or vacating a road, notice thereof shall be
29 given by advertisement set up at the court house, and in three
30 public places in each township through which such road is de-
31 signed to be laid out, altered or vacated, at least thirty days
32 previous to the meeting of the board of supervisors, at which
33 the petition shall be presented, stating the time when such pe-
34 tition will be presented and the substance thereof.

35 5. Upon presentation of said petition the board of supervi-
36 sors, at a regular meeting, may appoint three viewers, who, af-
37 ter having been sworn, shall proceed to view the ground and
38 report to the board of supervisors the convenencies and incon-
39 venencies that will result as well to individuals as to the pub-
40 lic, if such road be as proposed. They shall also report the
41 facts and circumstances in their opinion useful in enabling the

42 board to determine the expediency of establishing, altering or
43 vacating such road. They may examine other routes than
44 that proposed for any road, and report in favor of the one
45 they prefer, with the reasons for their preference.

46 6. They shall report the names of the land owners on such
47 route, and state which of them require compensation, the prob-
48 able amount thereof, and what they (the viewers) believe such
49 land owners are entitled to, if the road is established or altered
50 as proposed, and such other matters as they may deem perti-
51 nent. A map or diagram of such route shall be returned with
52 their report. They may employ a surveyor if they deem it
53 necessary.

54 7. Upon the report, unless the board be against establishing,
55 altering or vacating the road, it shall award process to sum-
56 mon the proprietors and tenants of the lands on which it will
57 be established, to show cause against the same. The summons
58 shall be executed on such of them as are in the county, and on
59 any agent therein of any proprietor not within the same.

60 8. Upon the return of the said process so executed, if the
61 board has enough before it to enable it to fix upon a just com-
62 pensation to the proprietors and tenants, and they are willing
63 to accept what it deems just, it may determine the matter with-
64 out a writ of *ad quod damnum*.

65 9. But the writ shall be awarded, if desired by any proprie-
66 tor or tenant, or if the board shall see cause to apply for the
67 same. Such writ shall be awarded by the judge of the circuit
68 court, commanding the sheriff to summon and empanel a jury
69 of———or more free-holders of the county not related to
70 either party, to meet on the lands of such proprietors and ten-
71 ants. Such notice shall be served like the previous process,
72 except only that it need not be given to one present at the time
73 of making the order.

74 10. The jury, after being duly sworn by the sheriff, shall
75 view the lands of the proprietors and tenants so named, and
76 ascertain what will be a just compensation to each proprietor
77 and tenant so named for the lands proposed to be taken, and
78 for the damage to the residue of his tract, beyond the peculiar
79 benefits which will be derived, in respect to such residue from
80 the road.

81 11. If the first jury cannot agree upon their inquest, they
82 shall be discharged and another jury empannelled in like man-
83 ner, and notice given as aforesaid.

84 12. When the verdict or inquest is agreed upon it shall be
85 signed by the jurors and returned by the sheriff, together with
86 the writ, to the judge of the circuit court, who shall, if he is
87 satisfied it is in conformity with this law, return the same to

88 the board of supervisors, who shall determine whether the road
89 shall be established, altered or vacated as proposed.

90 13. When the road is established or altered, the county shall
91 be chargeable with the compensation to the proprietors or ten-
92 ants, with such costs as the board may allow the applicant and
93 the cost of the inquest, except where the record shows that the
94 sum allowed by the jury as compensation to any proprietor or
95 tenant is not more than the board of supervisors, before the
96 writ of *ad quod damnum* had consented to allow him. Such
97 proprietor or tenant in such case shall be adjudged to pay the
98 costs occasioned by such writ.

99 14. A statement in writing of the number of days each view-
100 er and every surveyor was employed in executing any such
101 order, shall be sworn to and presented to the board of super-
102 visors, who may allow to each a reasonable compensation, not
103 exceeding two dollars per day, to be paid by the county.

104 15. All male persons between twenty-one and fifty-five
105 years of age, who have resided three months in this State,
106 and who are not a county or township charge, shall be liable
107 yearly, and every year, to do and perform two days' work on
108 the public roads, under the direction of the surveyor of roads
109 within whose precinct they may respectively reside.

110 16. It shall be the duty of every surveyor of roads to or-

111 der out every such person between the first day of April and
112 the first day of October, annually, to meet, with proper tools,
113 and perform the work aforesaid on the public roads within
114 his precinct; and if any such person being personally warned
115 by the surveyor, or by leaving a written notice at his usual
116 place of abode, or by some person under the direction of the
117 surveyor, by whom such warning can be proven, shall refuse
118 or neglect, having had at least three days notice to attend by
119 himself or substitute, to the acceptance of the surveyor, on the
120 day and at the time and place directed by the surveyor, or
121 having attended shall refuse to obey the direction of the sur-
122 veyor, or shall spend the time in idleness or in attention to
123 the duties assigned him, every such delinquent shall forfeit
124 and pay for neglect to attend, or for any of the offences speci-
125 fied, one dollar for every such offense, to be recovered by ac-
126 tion before any justice of the township, at the suit of the sur-
127 veyor, with costs of collection.

128 17. Persons who may be deemed by the surveyor unable
129 to perform, or cause to be performed, the two days work re-
130 quired by this act, shall be exempted from the requisitions of
131 the same for that year.

132 18. For the purposes provided for in the preceding sections
133 of this act, the residence of any person who has a family shall

134 be held to be where his family resides; and the residence of
135 any other person shall be in the precinct wherein he boards.

136 19. The surveyor of roads for each precinct, shall make
137 out and report in writing to the board of supervisors on the
138 first day of their annual meeting to levy taxes: 1st. The la-
139 bor performed by persons required to work under the 14th
140 section of this act. 2d. The amount of labor and money re-
141 ceived on account of road tax, delinquencies, fines and for-
142 feitures. 3d. The application of the same. 4th. The im-
143 provements which have been made on the roads and bridges
144 during the year preceding such report, the condition of such
145 roads and bridges; and 5th. The estimated cost of keeping in
146 repair the roads and bridges in his precinct for the ensuing
147 year, after deducting the two days labor provided for in the
148 14th section of this act.

149 20. Upon the report of the surveyor of roads, the board of
150 supervisors, at their annual meeting for making the county
151 levy, shall, on all property subject to taxation for State pur-
152 poses, levy a tax for the improvement of roads, and building
153 and keeping in repair bridges, not exceeding the sum of—
154 on each hundred dollars worth thereof.

155 21. The board of supervisors may set apart such portion of
156 the road tax by them levied as they may deem proper, to be

157 applied to building and repairing bridges in their respective
158 counties, which proportion shall be called a bridge fund, and
159 shall be entered on the duplicate of taxes for the county in a
160 separate column from the other levies for road purposes, and
161 shall be collected in money, and expended under the direction
162 of the board of supervisors in the building or repairing of
163 bridges.

164 22. The assessor or assessors of each county shall, imme-
165 diately after the board of supervisors, at their annual session
166 for that purpose, shall have determined upon the amount to
167 be assessed for road purposes in their several precincts, make
168 out a list for each road precinct of the amount of road tax
169 with which each individual stands charged, and transmit the
170 same to the surveyor of roads in each precinct.

171 23. The surveyor of roads shall allow each person assessed
172 with road tax to work the same out himself or by substitute,
173 computing each days work of an able-bodied man at one dol-
174 lar. He shall also have power to require a cart, wagon,
175 plough or scraper, with a yoke of oxen or span of horses, and
176 a man to manage them, to be furnished by any person having
177 the same, within his precinct, who shall have been assessed
178 and shall be liable for road tax, and the person furnishing the
179 same shall be allowed a fair compensation by the surveyor

180 to be credited on the road tax of the person furnishing the
181 same.

182 24. The surveyors of roads shall repair and keep in good
183 order the roads and bridges in their respective precincts ; they
184 shall warn all persons assessed and bound to work on the roads
185 in their respective precincts, to meet to work on such roads
186 according to law. They shall collect all sums due for delin-
187 quencies, forfeitures, fines and penalties, and execute all law-
188 ful authority conferred upon them by the road laws of this
189 State.

190 25. The surveyors of roads of any township shall have pow-
191 er to change the boundaries, increase or diminish the number
192 of the precincts in their respective township, at a meeting
193 called for the purpose, provided a majority of all the survey-
194 ors in such township concur. For the purpose of improving
195 the road they shall have power, with the consent of the land-
196 holder through which their road may pass, to change the same
197 where such change will not increase the length, or injure or
198 require more work to keep the same in repair.

199 26. Each surveyor within his precinct, shall erect and keep
200 up, out of any money or road tax under his control, at the
201 forks of every State or county road a conspicuous guideboard
202 or fingerboard, containing an inscription in legible letters and

203 figures directing the way and distance to the town or towns,
204 or public places, situated on each road respectively.

205 27. If any person shall wilfully demolish, throw down, al-
206 ter or deface any mileboard or guideboard, on or at the fork
207 of any public road, every person so offending shall, upon
208 conviction thereof before any justice of the proper county, be
209 fined in any sum not exceeding ten dollars with costs of suit,
210 and the money when collected shall be paid over to the sur-
211 veyor of roads, in whose precinct the offence was committed.

212 28. All public roads that have not been vacated according
213 to law, heretofore established in pursuance of law, and now in
214 use, are hereby declared to be public roads subject to the
215 provisions of this act.

216 29. The surveyor of any road may take from any conve-
217 nient lands so much wood, stone, gravel or earth, as may be
218 necessary to be used, in constructing or repairing such road,
219 or any bridge, and may for the purpose of draining the road
220 cause a ditch to be cut through any lands adjoining the same,
221 provided such wood and other articles be not taken from, and
222 such ditch be not cut through any lot in any town without the
223 consent of the owner. If the owner or tenant of any such
224 lands shall think himself injured thereby more than the sur-
225 veyor is willing to allow him, a justice, upon application to

226 him, shall issue a warrant to three freeholders, requiring them
227 to view the said lands and ascertain what is a just compensa-
228 tion to such owner or tenant, for the damage to him by rea-
229 son of anything done under this section. The said freehold-
230 ers, after being sworn shall accordingly ascertain such com-
231 pensation, and report the same to the surveyor who shall al-
232 low the same to said owner or tenant on his road tax.

233 30. Every surveyor of roads shall continue in office until
234 his successor shall qualify, and within ten days after his suc-
235 cessor shall have qualified, he shall pay over to such succes-
236 sor all money in his hands and transfer all accounts, judg-
237 ments, books, lists, and papers connected with his office. Any
238 surveyor of roads failing or refusing to comply with this pro-
239 vision, shall be subjected to a fine of not more than twenty
240 dollars, which with the amounts of money, judgments, and
241 accounts in his hands, may be collected as other debts are
242 collected and paid to his successor.

243 31. All fines, forfeitures, penalties and donations collected
244 under this act, shall be appropriated agreeably to the provis-
245 ions, of this act to the improvement of roads and bridges in
246 the precincts in which they are forfeited and donated.

247 32. The board of supervisors shall have power to deter-
248 mine the width of roads and bridges; provided, that no coun-
249 ty road or bridge shall be less than twelve feet wide.

250 33. Every surveyor of roads before entering on the duties
251 of his office, shall himself, with one or more good securities,
252 execute and deliver to the clerk of his township a bond pay-
253 able to the supervisor of the township in a penalty of one
254 hundred dollars, conditioned for the faithful performance of
255 the duties of his office, and the payment of any money in his
256 hands at the expiration of his term of office to his successor.
257 If any successor shall fail to pay over such money in his
258 hands to his successor, it shall be the duty of said successor
259 to institute a suit before a justice upon his said bond, in the
260 name of the supervisor of his township for the use of the pre-
261 cinct, and recover from him and his sureties such sum as may
262 appear to be due, with interest, fine and costs.

263 34. If any person or corporation shall obstruct any public
264 road or bridge, and suffer such obstruction to remain to the
265 hindrance or inconvenience of the public, or shall change the
266 line of, fill up or dig out the bed of such road, or in any other
267 manner injure such road or bridge, such person or corpora-
268 tion shall be subject to an action before some justice on the
269 case, at the suit of the surveyor or any person who may be
270 be liable to injury by such obstruction in the precinct in which
271 such road or bridge is situate, and shall be liable for damages.
272 The justice in such suit shall estimate the measure of such

273 damages at a full compensation to the public for the loss of,
274 or injury to such road or bridge, and the amount of damage
275 after paying cost shall be paid to the surveyor of roads to be
276 accounted for and expended in the precinct according to the
277 provisions of this act.

278 35. Any person who shall have been duly elected or ap-
279 pointed surveyor of roads and shall refuse to serve, shall for-
280 feit the sum of ten dollars; provided, that no person shall be
281 required to serve for two consecutive terms.

282 36. Each surveyor shall be allowed for his services for
283 warning the hands, superintending the work and for time
284 necessarily spent by virtue of his office, one dollar and fifty
285 cents per day out of his road tax, and any money in his hands
286 unexpended, after deducting from his time two days work as
287 required by the fifteenth section of this act.

288 37. At any time during the year when any public road
289 shall be obstructed by the fall of timber or any other cause,
290 or any bridge shall be impaired so that the travel on such road
291 will be unsafe, it shall be the duty of the surveyor to order
292 out such number of the hands of his precinct, as he may deem
293 necessary to remove such obstruction or repair such bridge.

294 38. If any person shall, under the direction of the survey-
295 or, perform more labor on the public roads than may be due

296 from him, the surveyor shall give such person a certificate
297 specifying the amount of extra labor so performed, which cer-
298 tificate shall be received for the amount specified in discharge
299 of any labor or road tax within the same precinct, which may
300 be due from the holder of such certificate in any succeeding
301 year.

302 39. The board of supervisors, at a regular meeting, shall
303 have power to permit gates to be erected across any road, or
304 to remove gates that have been erected across any road; pro-
305 vided, that notice of the application therefor shall have
306 been posted up at the court house, and at three prominent
307 places near where the said gate or gates are desired to be
308 erected or abated at least twenty days before such meeting
309 of the board.

310 40. Surveyors of roads may put up and keep in repair such
311 foot bridges as they may deem necessary for public conve-
312 nience.

313 41. When a bridge is necessary and of such size and im-
314 portance that it would not be practicable for a surveyor to
315 construct, the board of supervisors shall appoint commission-
316 ers who shall give reasonable notice in some newspaper in the
317 county or at the front door of the court house, that proposals
318 will be received for the building or repair of such bridge.

319 Upon receiving such proposals they shall determine which
320 they will accept, and proceed to take a bond with sufficient
321 surety in a penalty of double the amount the said contractor
322 is to receive for the faithful performance of his said contract;
323 such bond and contract shall be approved and ratified by the
324 board of supervisors and the fact entered on record. The
325 said contract, after such approval and ratification, shall be
326 binding upon the county and such contractor.

327 42. When it becomes necessary to build or repair a bridge
328 across any stream on a line between two counties, or to con-
329 struct or keep in repair any road, or to connect roads between
330 two counties and the authorities of such counties disagree, it
331 shall be the duty of the board of supervisors of each county
332 to appoint commissioners to meet and arrange the matter,
333 and if they should disagree they may call to their aid a com-
334 missioner or commissioners from an adjoining county to assist
335 them in their decision, which decision, when confirmed by the
336 boards of supervisors of each county shall be binding.

337 43. If the voters of any township deem the road tax levied
338 by the board of supervisors not sufficient for the opening, re-
339 pair, and improvement of public roads, and the building and
340 repair of bridges in their township, they may by a vote of a
341 majority of the registered voters of such township, at the an-

342 nual meeting, or at a special meeting called for the purpose,
343 levy an additional tax not exceeding ten cents on the hundred
344 dollars, to be appropriated or worked out as other road tax
345 according to the provisions of this act.

346 44. The fifty-second chapter, and the fifty-second and fifty-
347 third sections of the sixty-first chapter of the Code of Vir-
348 ginia, second edition, are hereby repealed.

HOUSE BILL No. 128.

**A BILL TO CONSTRUE AND GIVE EFFECT WITHIN
THIS STATE TO CERTAIN PROVISIONS OF THE
LAWS OF VIRGINIA.**

Be it enacted by the Legislature of West Virginia :

1 Wherever the words Commonwealth of Virginia or State
2 of Virginia, or any expression used to designate the said State,
3 occur in any provision of the Code of Virginia, second edition,
4 or of the acts of the General Assembly thereof in force with-
5 in the limits of this State on the nineteenth day of June,
6 eighteen hundred and sixty-three, such provision, in its appli-
7 cation to this State shall be construed as if, instead of the said
8 words or expression, the words State of West Virginia was in-
9 serted therein. In like manner the words oath of fidelity, or
10 any expression used to designate the said oath, shall be con-
11 strued to mean the oath to support the Constitution of the
12 United States, and the Constitution of this State; and the
13 words General Assembly to mean Legislature, the words At-
14 torney for the Commonwealth to mean Prosecuting Attorney,
15 and the words Auditor of Public Accounts to mean the same
16 as Auditor. And the said provisions thus construed, if not

17 otherwise repugnant to the Constitution of this State or the
18 acts of its Legislature, shall be and continue in force as laws
19 of this State. But this act shall not be held applicable to any
20 provision of the said Code or laws of Virginia which has been
21 amended and reenacted, or altered, by this Legislature, nor
22 shall it revive any provision that has been repealed.

HOUSE BILL No. 129.

A BILL TO INCORPORATE THE BURNING SPRING TURNPIKE COMPANY.

Be it enacted by the Legislature of West Virginia :

1 1. It shall be lawful to open books for receiving subscrip-
2 tions to an amount not exceeding five thousand dollars, to be
3 divided into shares of twenty-five dollars each, for the purpose
4 of constructing a graded turnpike road from the termination
5 of the Newark and Elizabethtown turnpike, opposite Eliza-
6 bethtown in the county of Wirt, to a point at or near the
7 mouth of Burning Spring run, with the privilege of extending
8 the same to a point opposite the mouth of the West Fork of
9 the Little Kanawha river, all in the same county.

10 2. The said books shall be opened at Rathbone city, under
11 the direction of Richard D. Petty, John Weare, and Godwin
12 Van Winkle; at Elizabethtown, under the direction of Marcus
13 L. Lockhart, William D. Wilkinson, and Edward C. Hopkins;
14 at Newark, under the direction of Jesse Worley, Thomas P.
15 Fought, and Benjamin F. Stewart; and at Parkersburg, under
16 the direction of J. C. Rathbone, Samuel Newberger, and Jas.
17 W. Dils, or any one or more of them, and at such other places
18 and under the direction of such persons as a majority of the
19 above named commissioners may appoint.

20 3. When forty shares of the said capital stock shall have
21 been subscribed for, the subscribers, their executors, adminis-
22 trators and assigns, shall be incorporated into a company by
23 the name and style of the Burning Spring Turnpike Company,
24 subject to the provisions of chapters fifty-six, fifty-seven and
25 sixty-one of the Code of Virginia, second edition; but the said
26 company shall have the privilege of making the said road, or
27 any part thereof, with gravel, sand, clay or plank, as to them
28 shall seem most expedient.

29 4. The said road shall be opened not more than thirty feet
30 in width and graded not less than twelve feet wide on hill sides
31 and in cuts, and not less than sixteen feet wide in all other
32 places, and shall be constructed at grades nowhere exceeding
33 four degrees of elevation. Tolls may be collected on any con-
34 tinuous section of four miles of the said turnpike road as soon
35 as the same shall be completed and opened to the public.

HOUSE BILL No. 130.

**A BILL TO CONTINUE THE STAY LAW IN FORCE
IN CERTAIN COUNTIES.**

Be it enacted by the Legislature of West Virginia :

1 1. The provisions of the act of the Legislature of
2 Virginia, passed January thirtieth, 1863, entitled
3 "An act staying the collection of certain debts," are
4 hereby continued in full force in the following named
5 counties, to-wit: Wayne, Mercer, Logan and Boone,
6 until the 1st day of March, 1865. Nothing herein
7 contained shall be construed to suspend the act passed
8 July 27th, 1863, amending the said act within the
9 counties aforesaid.

HOUSE BILL 131.

**A BILL FIXING THE COMPENSATION OF THE
SERGEANT-AT-ARMS OF THE HOUSE OF DEL-
EGATES.**

Be it enacted by the Legislature of West Virginia :

1 The Sergeant-at-Arms of the House of Delegates
2 shall receive, during the session of the House for his
3 services, three dollars per day.

HOUSE BILL No. 132.

A BILL PROVIDING FOR THE PAYMENT OF CERTAIN MILITIA CLAIMS ALLOWED BY REGIMENTAL COURTS.

Be it enacted by the Legislature of West Virginia :

1 1. The Auditor is hereby required to pay out of
2 any money in the treasury not otherwise appropriated,
3 all militia claims for services rendered since June 20,
4 1861, as Musician, Adjutant, Provost Marshal and Reg-
5 imental Clerk, which have been allowed by regimental
6 courts of the several regiments within the bounds of
7 this State, and are duly certified by the regimental
8 clerks and countersigned by the commandants of the
9 regiments according to law.

HOUSE BILL NO. 133.

A BILL REGULATING CONTESTED ELECTIONS.

Be it enacted by the Legislature of West Virginia:

1 1. Any person intending to contest the election of another as
2 Senator or Delegate shall, within twenty-one days after the elec-
3 tion, give him notice thereof in writing, and a list of the votes
4 he will dispute, with his objections to each, and of the votes re-
5 jected for which he will contend. If the contestant object to the
6 legality of the election, or the qualifications of the person re-
7 turned, the notice shall set forth the facts on which such objec-
8 tion is founded. The person whose election is contested shall,
9 within fourteen days after he receives such notice, deliver to the
10 contestant a like list of the votes he will dispute, and of his ob-
11 jections to each, and of the rejected votes he will claim, and if
12 he has any objection to the qualifications of the contestant, shall
13 specify in such notice the facts on which the objection is founded.
14 Each party shall append to his notice his affidavit that the mat-
15 ters therein set forth, so far as they are stated of his own knowl-
16 edge, are true, and so far as they are stated on the information of
17 others, he believes them to be true.

1 2. Where, however, such contest arises upon a special election
2 to fill a vacancy held at any other time than the fourth Thurs-

3 day of October, the notice, with specifications and affidavit as
4 above, shall be given by the contestant within ten days after the
5 election, and by the party whose election is contested within five
6 days after receiving such notice.

1 -3. If new facts be discovered by either party after he has giv-
2 en notice as aforesaid, he may give an additional notice or notices
3 to his adversary, with specifications and affidavit as above pre-
4 scribed; but no testimony shall be taken concerning the matters
5 alleged in such additional notice or notices, until five days at
6 least after the delivery thereof to the opposite party..

1 4. Subject to the provision contained in the last section, either
2 party may begin to take depositions at any time after the deliv-
3 ery of the original notice by the contestant. But reasonable
4 notice of every such deposition shall be given in the manner
5 prescribed in the one hundred and sixty-seventh chapter of the
6 Code of Virginia, 2d edition; and every such notice shall specify
7 the names of the witnesses to be examined, and the particular
8 vote or votes about which they will be interrogated, or whether
9 they are to be examined respecting the legality of the election,
10 or the qualifications of the contestant or person returned. The
11 depositions may be taken before a justice, notary or any officer
12 authorized to take depositions in civil suits; and the officer be-
13 fore whom they are taken shall certify and seal up the same,
14 and endorse his name across the place where they are sealed, and

15 address and transmit the same by mail or otherwise to the clerk
16 of the branch in which the seat is contested. When the petition
17 of the contestant is referred to a committee, the clerk shall de-
18 liver the depositions to such committee for examination and
19 report.

1 5. Subpaenas for witnesses shall be issued by the clerks of the
2 circuit courts upon application of either party; and the wit-
3 nesses so summoned shall be entitled to the same allowances and
4 privileges, and be subject to the same penalties as witnesses
5 summoned to attend the said courts.

1 6. If the contest arise respecting any election held on the
2 fourth Thursday of October, the parties shall finish taking de-
3 positions ten days at least before the third Tuesday of January
4 next following. But if it arise upon a special election to fill a
5 vacancy held at any other time, they shall finish within twenty-
6 one days after the election.

1 7. Neither party shall have the benefit of any deposition taken
2 otherwise than as aforesaid, unless further time be given by res-
3 olution of the proper branch of the Legislature.

1 8. The petition of the contestant shall be presented to the
2 proper branch of the Legislature within ten days after its meet-
3 ing, if the disputed election was held at the regular annual peri-
4 od; or if it was a special election to fill a vacancy, within twen-
5 ty-five days after such election.

1 9. If it be ascertained that an equal number of legal votes
2 was given for the petitioner and the person returned, the seat
3 shall be declared vacant, and a writ of election be issued to fill
4 the vacancy as in other cases.

1 10. If any contest arise respecting the election of any person
2 as Senator or Delegate at the election held on the fourth Thurs-
3 day of October last, it shall be governed by the provisions above
4 contained, except that the contestant may give his notice within
5 twenty-one days after the passage of this act, instead of twenty-
6 one days after the election.

1 11. If the election of Governor, Secretary of the State, Audi-
2 tor, Attorney General, Judge of the Supreme court of Appeals,
3 or Judge of a Circuit, be contested, the contestant must give
4 notice, with specifications and affidavit as aforesaid, to the per-
5 son whose election is contested within ten days after the result
6 is officially declared, and within ten days thereafter the return
7 notice must be given to the contestant. The parties shall finish
8 taking depositions within forty days after the last mentioned
9 notice is delivered. The depositions shall be transmitted to the
10 clerk of the House of Delegates, to be delivered by him to the
11 joint committee, or special court hereinafter provided for. In
12 other respects, the regulations herein contained respecting con-
13 tests for seats in the Legislature, shall be observed so far as they
14 are applicable.

1 12. Where the election of Governor is contested, the petition
2 of the contestant and the depositions shall be referred to a joint
3 committee of the two branches for examination and report,
4 which committee shall consist of two Senators elected by ballot
5 by that branch, and three Delegates elected by ballot by the
6 House of Delegates. The contest shall be determined by the
7 Legislature, both branches thereof sitting in joint session in the
8 hall of the House of Delegates, the speaker of which house shall
9 preside.

1 13. Where the election of Secretary of the State, Treasurer,
2 Auditor, Attorney General, or of a Judge of the Supreme Court
3 of Appeals or Circuit is contested, the case shall be heard and
4 decided by a special court to be constituted as follows: The per-
5 son declared elected shall select one, the contestant another,
6 and the Governor a third person, who shall preside in the said
7 court, and the three, or any two of them, shall meet at a time
8 and place to be appointed by the Governor, and being first duly
9 sworn impartially to decide according to the law and the truth
10 upon the petition returned and evidence to be submitted to
11 them, shall proceed to hear and determine the case and certify
12 their decision therein to the Governor. They shall be entitled
13 to the same pay and mileage as members of the Legislature, to
14 be paid out of the Treasury of the State, but their compensation
15 shall not in any case exceed forty-five dollars each, exclusive of
16 mileage.

1 14. The costs of every contested election shall include only
2 the expenses of serving notices, taking the depositions and the
3 allowances to witnesses; and shall be noted at the foot of every
4 deposition or set of depositions by the person taking the same.
5 If the contestant fail in setting aside the election there shall be
6 awarded against him the amount of such costs incurred or ex-
7 pended by the person who was returned, or declared elected.
8 Otherwise, each party shall pay his own costs; unless it appears
9 that the person returned or declared elected was guilty of fraud
10 or malpractice in the election, or in procuring such return or
11 declaration, in which case costs shall be awarded against him in
12 favor of the contestant. Where costs are awarded in favor of
13 either party, the amount thereof shall be ascertained under di-
14 rection of the branch, joint session or court which decides the
15 case, and a certificate thereof authenticated by the signature of
16 the presiding officer shall be delivered to the party in whose favor
17 they are awarded, which certificate shall have the force of a
18 judgment; and if such costs be not paid within ten days after
19 the date thereof, the clerk of the circuit court of the county in
20 which the party against whom the costs were awarded resides,
21 may issue execution on such certificate upon its delivery to him,
22 in like manner as upon a judgment of the said circuit court.

1 15. If any contest arises respecting an election heretofore held
2 for any county or township office, the first board of supervisors

3 to be elected for the county, may, at a meeting or meetings held
4 for the purpose, at any time within thirty days after the elec-
5 tion of said board, proceed to hear and determine the same, un-
6 der the regulations prescribed in the thirty-first and thirty-sec-
7 ond sections of the act passed at the present session, entitled
8 "An Act to regulate elections by the people."

1 16. The tenth chapter of the Code of Virginia, second edi-
2 tion, is hereby repealed.

HOUSE BILL No. 134.

A BILL MAKING AN APPROPRIATION FOR REPAIRING
A BRIDGE NEAR WEBB'S MILLS, IN THE COUNTY OF
RITCHIE.

Be it enacted by the Legislature of West Virginia:

1 1. John H. Prince is hereby authorized to act as commissioner,
2 under the control of the Board of Public Works, to contract for
3 and superintend the repair of a bridge on the Staunton and
4 Parkersburg Turnpike, near Webb's Mill, in the county of
5 Ritchie.

6 2. The sum of one hundred dollars is hereby appropriated out
7 of any money in the treasury not otherwise appropriated, for
8 the aforesaid repairs, to be paid by the Auditor upon the drafts
9 of said commissioner when the work is completed.

HOUSE BILL No. 135.

A BILL CONCERNING SLAVES.

Be it enacted by the Legislature of West Virginia :

1 1. No person held to service or labor as a slave under the laws
2 of any other state, territory or country, shall be permitted to
3 come, or be brought, into this State for permanent residence.
4 Any such person or slave coming or brought into this State by
5 or with the consent of his master or owner, or of any person
6 legally representing or acting for or on behalf of such master or
7 owner, and remaining therein with the consent of such master,
8 owner or person, for six months, shall be thereafter free.

1 2. It shall not be lawful to remove from this State any person
2 held to service or labor as a slave, with the intent to deprive
3 such person, or the children thereafter born of such person, of
4 their right to freedom under the seventh section of the eleventh
5 article of the Constitution of this State. Any person who shall
6 so remove any slave from this State, or aid or abet another in so
7 doing, shall be punished by confinement in the penitentiary not
8 less than one nor more than three years. If such removal be
9 made by, or at the instance, or with the connivance of the own-
10 er, such slave shall thereafter be free.

1 3. Any person may emancipate his slaves by deed or will.

2 Slaves so emancipated shall not be liable to be taken under ex-
3 ecution or for taxes, if other property can be found subject there-
4 to ; and if so taken, shall not be sold, but may be hired out and
5 the proceeds of such hire be applied in payment of such execu-
6 tion or taxes ; and as soon as the same are paid the slave shall
7 be free.

1 4. If any slave emancipated by deed or will, be at the time
2 he is emancipated unable to maintain himself, on account of
3 physical weakness or disability or mental incapacity, the over-
4 seer of the poor for the proper township shall provide for his
5 maintenance, and charge the necessary expenses thereof, quar-
6 terly or annually, to the person who emancipated him or his es-
7 tate, and may recover the same from time to time before any
8 Court or justice having jurisdiction.

1 5. The persons entitled to the services and labor of slaves
2 emancipated by the Constitution on their attaining the ages of
3 twenty-one and twenty-five years, may transfer their right ; but
4 such transfer shall be by deed or bill of sale duly recorded in the
5 county of the purchaser, in which shall be set forth the time of
6 the birth of such slave, as nearly as it can be ascertained, and
7 the time when, under the provisions of the seventh section of the
8 eleventh article of the Constitution, he will be free. If the per-
9 son transferring his right to such services, shall knowingly and
10 wilfully insert, or permit to be inserted, in such deed or bill of

11 sale, as the time when such slave will be free, a time later than
12 the true time, he shall be liable to a penalty of two hundred and
13 fifty dollars.

1 6. It shall be the duty of the assessors of the several counties
2 of the State annually, to list all children born of slave mothers
3 within their respective districts, after the fourth day of July,
4 one thousand eight hundred and sixty-three, in such manner as
5 to show the names and time of birth of such children, the names
6 of the mothers and their respective owners, and the townships in
7 which the latter respectively resides, and also to list all slaves
8 who at the time aforesaid were under the age of ten years, and
9 in a separate list those who were at that time over ten and un-
10 der twenty-one years of age, showing in each case the names of
11 such slaves, and the respective times of their birth as nearly as
12 can be ascertained, and the names and townships of their res-
13 pective owners. If the services and labor of any such slave
14 have been transferred, or he has been emancipated, or has re-
15 moved from the county, or has died since the previous list was
16 prepared the fact shall be noted on the proper list. These lists
17 shall be filed and preserved in the office of the recorder for pub-
18 lic inspection. Any person who shall knowingly and wilfully
19 give to the assessor false information as to the time of birth of
20 any such slave, shall be liable to a penalty of one hundred dol-

21 lars. For every person properly listed by them under the pro-
22 visions of this section, the assessor shall receive——cents, to
23 be paid out of the county treasury.

HOUSE BILL No. 136.

A BILL RELATING TO MONEY AND INTEREST.

Be it enacted by the Legislature of West Virginia :

1 1. The money of account of this State shall be the dollar, cent,
2 and mill, all accounts by public officers shall be so kept.

1 2. No writing shall be invalid, nor the force of any account or
2 entry be impaired, because a sum of money is expressed therein
3 otherwise than in the said money of account.

1 3. In any suit for a sum of money expressed in any foreign
2 currency or otherwise than in the money of account of this State,
3 the jury, if there be one impaneled for any other purpose, and
4 if not, the court shall ascertain the value in the said money of
5 account of the sum so expressed, making such allowance for the
6 difference of exchange as shall be just ; and the judgment or de-
7 cree may either be for what may be so ascertained, or for the
8 sum of money expressed as aforesaid, to be discharged by the sum
9 so ascertained.

1 4. Legal interest shall continue to be at the rate of six dollars
2 upon one hundred dollars for a year, and proportionably for a
3 greater or less sum, or for a longer or shorter time.

1 5. If a contract or assurance be for the payment directly or
2 indirectly for the loan or forbearance of any money or other
3 thing, of interest at a greater rate than is allowed by the prece-

ceding section, it shall be deemed for an illegal consideration as to the excess beyond the principal and interest so allowed.

6. Any borrower of money or other thing, may file a bill in equity against the lender and compel him to discover upon oath the money or thing really lent, and all bargains, contracts, or shifts relative to such loan, or the interest or consideration for the same; and if it appear that there was any such illegal consideration, the lender shall recover only his principal money with interest at the rate of six dollars upon one hundred dollars for a year.

7. If a person take for the loan or forbearance of money or other thing, interest at a greater rate than ten dollars upon one hundred dollars for one year, beside forfeiting the excess above legal interest to the borrower, such person shall forfeit double the amount of such excess which shall be collected with costs and paid into the school fund of the State.

8. Chapter one hundred and forty-one of the Code of Virginia, second edition, is hereby repealed.

HOUSE BILL No. 137.

A BILL RELATING TO CONVICTS.

Be it enacted by the Legislature of West Virginia :

1 The Governor is hereby authorized to have removed
2 to the Penitentiary of any other State of the Union, if
3 he can negotiate with the proper authorities of such
4 State on satisfactory terms, all convicts now in the jails
5 of this State who have been convicted under the re-or-
6 ganized Government of Virginia or the Government of
7 this State, and all who may hereafter be convicted in
8 this State, until arrangements have been made by it for
9 their safe keeping within its limits.

HOUSE BILL No. 138.

A BILL PRESCRIBING TAXES ON LICENSES.

Be it enacted by the Legislature of West Virginia.

1 1. The yearly tax on licenses to be paid into the State
2 Treasury shall be as follows: On every licence to keep a hotel
3 or tavern, forty dollars; and if the yearly value of such house
4 and furniture exceeds one hundred dollars and is less than two
5 hundred dollars, the tax shall be fifty dollars; and if the yearly
6 value thereof exceeds two hundred dollars, there shall be ad-
7 ded to the aforesaid sum of fifty dollars, fifteen per centum on
8 so much of said yearly value as exceeds two hundred dollars.

1 2. On every license to keep a house of private entertainment
2 or boarding house five dollars, and if the yearly value of such
3 house and furniture exceeds fifty dollars and is less than one
4 hundred dollars, the tax shall be ten dollars; and if the yearly
5 value thereof exceeds one hundred dollars there shall be added
6 to the aforesaid sum of ten dollars, ten per centum on so much
7 of such yearly value as exceeds one hundred dollars

1 3. On every license to keep a cook-shop or eating house,
2 not private, fifteen dollars; and in addition thereto, fifteen per
3 centum on so much of the yearly value thereof as exceeds one
4 hundred dollars.

1 4. On every license permitting theatrical performances to
2 which admittance is obtained for money or other reward, ten
3 dollars for each week, or less, of such performances.

1 5. On every license permitting the sale of drinks or refresh-
2 ments in a theatre, during such performances, one hundred dol-
3 lars for each place of sale; and no abatement shall be made
4 notwithstanding the privilege be not exercised for the period
5 of a full year.

1 6. On every license to sell by retail porter, ale or beer, and
2 if continued more than a year by the same person, whether alone
3 or in connection with another party, an additional tax of two
4 per centum on the amount of sales of the preceding year.

1 7. On every license to sell spirituous liquors, wines or a mix-
2 ture thereof, or any drink of like nature, one hundred dollars.

1 8. On every license permitting a bowling saloon or alley to
2 be kept for a year, fifty dollars; provided that where there is
3 more than one such alley kept in any one room, fifteen dollars
4 each shall be charged for the excess over one.

1 9. On every license permitting a billiard table to be kept for
2 a year, one hundred dollars; provided that where there is more
3 than one such table kept in any one room, fifty dollars each
4 shall be paid for the excess over one table.

1 10. On every license permitting any public show, not a cir-
2 cus or menagerie, for each time of performance ten dollars ;
3 and for every exhibition of a circus forty dollars, and for every
4 exhibition of a menagerie forty dollars. All such shows, exhi-
5 bitions and performances, whether under the same canvass or
6 not shall be construed to require a sepearate license therefor ;
7 and upon any such shows, exhibitions and performances being
8 concluded so that an additional fee for admittance be charged
9 the same shall be construed to require an additional license
10 therefor.

1 11. On every license to a non-resident dentist, ten dollars.

1 12. On every license to a non-resident Daguerrean or pho-
2 tographist or any person engaged in any art or business of a
3 like kind, twenty dollars ; and every one who has not resi-
4 ded in this state continuously for one year next preceding the
5 issuing of such license shall be deemed a non-resident under
6 this and the preceding section of this act.

1 13. On every license to sell or barter patent rights, fifty
2 dollars.

1 14. On every license to a hawker or pedlar or itinerant
2 vender of goods wares and merchandize, sixty dollars.

1 15. On every license to a stock broker who deals exclusively

2 in stocks, two hundred and fifty dollars, and he shall thereup-
3 on have the right to sell stocks at auction or otherwise.

1 16. On every license to a broker or private banker who car-
2 ries on for himself or any other person, the business of buying
3 and selling uncurrent money or funds, or exchanging one kind
4 of money or funds for another, two hundred and fifty dollars ;
5 if located in a city with a population exceeding fifteen thousand,
6 five hundred dollars.

1 17. On every license to a broker whose business it is to buy
2 or sell for others, property of any kind for a commission or re-
3 ward, other than the brokers named in the two preceding sec-
4 tions, fifty dollars.

1 18. On every license to an auctioneer or vendue master com-
2 mencing business, twenty-five dollars ; and if the place of busi-
3 ness be in a town containing a population af two thousand in-
4 habitants, thirty-two dollars ; if the population exceeds three
5 thousand, an additional tax of fifteen dollars for every thou-
6 sand persons above that number, and at that rate for any frac-
7 tional excess less than one thousand ; but said specific tax shall
8 in no case exceed three hundred and fifty dollars. On every
9 license to an auctioneer who deals exclusively in real estate,
10 two hundred and fifty dollars, and he shall have the right to

11 sell real estate at auction or otherwise. On every license to
12 an auctioneer or vendue master to continue the business after
13 the same has been carried on for a year, one per centum upon
14 the amount of sales of such auctioneer or vendue master, but
15 in no case shall the tax on such sales exceed one thousand
16 dollars.

1 19. On every license to any agent of a foreign insurance
2 company, five hundred dollars.

1 20. On every license to a person or company, carrying on
2 any express business for compensation, or who shall act as prin-
3 cipal agent of such person or company, five hundred dollars.

1 21. Sections X, XI, XII, XIII, XIV, XV, XVI, XVII,
2 XVIII, XIX, XX, XXI, XXII, XXIII, XXIV, XXV,
3 XXVI, XXVII, XXVIII, XXIX, XXX, XXXI, XXXII,
4 XXXIII, XXXIV, XXXV, XXXVI, XXXVII, XXXVIII,
5 XXXIX and XL, of Chapter forty, of the Code of Virginia,
6 second edition, are hereby repealed.

HOUSE BILL No. 139.

A BILL IN RELATION TO THE BOARD OF DIRECTORS FOR THE WEST VIRGINIA HOSPITAL FOR THE INSANE.

1 1. The Governor shall, as soon as practicable, ap-
2 point a board of directors for the West Virginia Hospi-
3 tal for the Insane, consisting of five persons, not more
4 than two of whom shall be selected from the county of
5 Lewis; their term of office shall commence on the first
6 day of January, eighteen hundred and sixty-four, on
7 which day they shall hold their first meeting, in the
8 town of Weston; when assembled they shall divide
9 themselves, by lot, into two classes; the first class to
10 consist of two members, who shall hold their office for
11 one year, and the second class to consist of three mem-
12 bers who shall continue in office for two years. After
13 the first appointment each class shall continue in office
14 for two years, and when vacancies occur by the provi-
15 sions of this act, or otherwise, the Governor shall fill
16 them by appointment. Said board is hereby constitu-
17 ted a body corporate by the name of the "West Virgin-
18 ia Hospital for the Insane," and by that name may sue
19 and be sued, and shall have and use a common seal, and
20 are authorized to take charge of the Asylum and of any

21 real or personal estate given, or to be given to it, or to
22 themselves for its use.

1 2. The board shall, at their first meeting, appoint a
2 treasurer, who shall give bond in such penalty as shall
3 be approved by the board. He shall receive all money
4 belonging to the Hospital and disburse it, under orders
5 of the board, and settle his accounts, as treasurer, semi-
6 annually. His draft on the treasury for an appropria-
7 tion shall be under the order of the board, a copy of
8 which shall accompany the draft; and no such draft
9 shall be allowed by the Auditor until all money drawn
10 for the year preceding shall be accounted for.

1 3. The board of directors shall annually, on or before
2 the first day of January, report to the Governor, for
3 the information of the Legislature, the condition of the
4 Hospital, with a full account of their contracts, receipts,
5 disbursements and proceedings.

1 4. The sixteenth section of the eighty-fifth chapter
2 of the Code of Virginia, second edition, is hereby re-
3 pealed.

HOUSE BILL No. 140.

A BILL EXEMPTING CERTAIN REAL ESTATE FROM DISTRESS AND LEVY.

Be it enacted by the Legislature of West Virginia :

1 1. In addition to the property exempted from dis-
2 tress or levy by sections 32, 33 and 34 of the 49th
3 chapter of the Code of Virginia, second edition, there
4 shall be exempted the following real estate :

1 2. Fifty acres of land of the value of five hundred
2 dollars, including the appurtenances thereto belonging,
3 or a smaller number of acres to that value. This ex-
4 emption shall continue after the death of the debtor,
5 for the benefit of his widow and family; provided, that
6 one or more of them continue to occupy the same till
7 the youngest child is of age, and until the death of the
8 widow. No release or waiver of this exemption shall
9 be valid. But to entitle a householder to the benefit
10 of this exemption, a notice of his design to hold the
11 property as a homestead must be executed and record-
12 ed in the recorder's office of the county where the pro-

13 perty is situated, and publish once a week for six
14 weeks, in a newspaper published in the county, or in
15 the newspaper published nearest the same. No pro-
16 perty shall, however, by virtue of this act, be exempt
17 from sale for non-payment of taxes, or for any labor
18 done thereon, or for materials furnished therefor, or
19 for debts contracted prior to the recording of the
20 aforesaid deed or notice. A homestead must be
21 reserved as such, for the use of the family. It
22 cannot be leased or sold without the full and free
23 consent of the wife of the owner. If an officer
24 cannot find sufficient property apart from that which
25 is exempt to satisfy the execution, a Judge of the Cir-
26 cuit Court may appoint six disinterested persons to ap-
27 praise the homestead, and if its value exceed five hun-
28 dred dollars the excess may be sold for the benefit of
29 the judgment creditor.

HOUSE BILL No. 141.

**A BILL FOR THE RELIEF OF THE BORDER
COUNTIES.**

Be it enacted by the Legislature of West Virginia :

1 That the people of all the border counties of the State
2 of West Virginia, where there has been no assessment
3 of property since 1861, shall be and the same is hereby
4 released from the payment of the taxes of the years 1861,
5 1862 and 1863.

HOUSE BILL No. 142.

A BILL CONCERNING SUPERINTENDENTS AND COMMISSIONERS OF SCHOOLS AND THE DISTRIBUTION OF THE CAPITATION TAX FOR 1861, 1862 & 1863.

Be it enacted by the Legislature of West Virginia:

1 1. Where a vacancy exists in the office of superin-
2 tendent of schools for any county, or in the office of
3 school commissioner in any district of a county, the
4 Judge of the Circuit Court of such county shall fill
5 such vacancy by appointment.

1 2. The superintendents of schools of the several
2 counties, whether elected under the provisions of the
3 fifth section of chapter eighty-one of the Code of Vir-
4 ginia, second edition, or appointed under the provisions
5 of this act, shall each, before entering upon the duties
6 of his office, obtain a certificate from a justice of his
7 county that he has taken the oaths of office prescribed
8 by law, and shall give bond with sufficient security in
9 the penal sum of not less than——thousand nor more
10 than——thousand dollars conditioned for the faithful
11 discharge of the duties of his office, and for accounting
12 for and paying over as required by law all money which
13 may come into his hands by virtue of his office, to be

14 approved by the recorder of his county, and with the
15 aforesaid certificate, filed in such recorder's office. A
16 copy of which bond and certificate the recorder shall
17 immediately transmit to the auditor.

18 3. Upon the receipt of a copy of the bond and certi-
19 ficate mentioned in the preceding section, the auditor
20 shall pay to such superintendent the amount due such
21 county on taxes from capitations for the years 1861,
22 1862 and 1863, according to the provisions of an act
23 passed by the General Assembly of Virginia, on the
24 30th day of January, 1863, entitled "An Act appro-
25 priating the capitation tax for the year 1862 for educa-
26 tional purposes.

HOUSE BILL No. 143.

A BILL TO REGULATE THE ELECTION AND QUALIFICATION OF JUSTICES AND CONSTABLES, AND TO PRESCRIBE IN PART THEIR POWERS AND DUTIES.

Be it enacted by the Legislature of West Virginia.

1 1. At the first township election, and the annual township elec-
2 tion to be held in the year eighteen hundred sixty-seven, and
3 every fourth year thereafter, the voters of each township shall
4 elect a Justice: and an additional Justice, if the white popula-
4 tion of their township exceed twelve hundred.

1 2. And at the said first township election, and the annual
2 township election to be held in the year eighteen hundred and
3 sixty-five, and every second year thereafter, they shall elect as
4 many Constables as Justices.

1 3. The terms of office of the Justices and Constables first elect-
2 ed shall respectively commence as soon as they have taken the
3 proper oaths of office and given bond as required by law, but
4 shall expire as if the same had begun on the twentieth day of
5 June, eighteen hundred and sixty-three.

1 4. The terms of those subsequently elected, except such as
2 may be elected to fill vacancies, shall commence on and include
3 the twentieth day of June next after the election at which they
4 are chosen, and continue for the periods prescribed by law, that
5 is: for Justices four years, and for Constables two years; and

6 in both cases, thereafter, until their successors are elected and
7 qualified.

1 5. The office of Justice or Constable shall be deemed vacant
2 not only when he dies, resigns or is removed from office, but also
3 when he removes from the township in which he was elected, or
4 fails to take the proper oaths of office and give his official bond
5 within thirty days after his election.

1 6. The resignation shall be by writing signed by the Justice or
2 Constable, and delivered to the clerk of the Board of Supervisors
3 of the county; or if there be no such clerk, to the Judge of the
4 Circuit or the Governor.

1 7. A Justice or Constable may be removed from office by the
2 Board of Supervisors of the county in the same manner and for
3 the same causes as county officers are removed by said Board,
4 two-thirds of the whole number elected to the said Board con-
5 ccurring in such removal.

1 8. When the office of Justice or Constable is vacant, the vacan-
2 cy shall be filled by election for the unexpired term in the man-
3 ner prescribed in the forty-third and forty-seventh sections of
4 the act passed November 13, 1863, entitled "An act to regulate
5 elections by the people."

1 9. But where a county has not been divided into townships, the
2 Governor may appoint and commission Justices and Constables
3 for the magisterial districts into which the said county was divi-
4 ded under the Constitution of the State of Virginia, not exceed-
5 ing two Justices and one Constable for any one district; and the

6 officers so commissioned shall hold their offices until the county
7 is divided into townships, and their successors respectively are
8 elected and qualified.

1 10. Every Justice and Constable, before proceeding to exer-
2 cise the authority or discharge the duties of his office, shall take
3 the proper oaths of office, under the penalty prescribed in the
4 fifth section of the act concerning oaths and affirmations, passed
5 June 26, 1863. A certificate thereof shall be filed with the Re-
6 corder of the county, according to the sixth section of the said
7 act.

1 11. He shall also give bond payable to the State of West Vir-
2 ginia, with one or more surities, to be approved by the recorder
3 and prosecuting attorney of the county, or the Judge of the Cir-
4 cuit, and filed in the office of the recorder, conditioned for the
5 faithful discharge of the duties of his office, and for accounting
6 for and paying over, as required by law, all money which may
7 come to his hands by virtue thereof. The penalty of the bond
9 in the case of a Justice shall be not less than one thousand nor
10 more than five thousand dollars, and Constable not less than one
11 thousand nor more than three thousand dollars, The provisions
12 of the act passed June 29, 1863, entitled "An act relating to of-
13 ficial bonds," so far as they are not inconsistent with this act,
14 shall be held applicable to the bonds of Justices and Constables.

OF THE CIVIL JURISDICTION OF JUSTICES.

1 12. The civil jurisdiction of a Justice shall be limited to the
2 township in which he was elected, except as hereinafter provided.

1 13. But a Justice of one township may issue a summons to the
2 defendant to appear before the Justice of another township in
3 the same county, if the suit be cognizable by the latter.

1 14. And where any township has but one Justice, if he be un-
2 der any disability to act, or the office be vacant, any other Jus-
3 tice in the same county may exercise jurisdiction within such
4 township.

1 15. Where any oath may lawfully be administered, or affida-
2 vit or deposition taken, within any township, it may be done
3 by a Justice thereof, unless otherwise expressly provided by law.

1 16. A Justice under such regulations as are prescribed by law,
2 may take within his township, the acknowledgment of deeds
3 and other writings, and the privy examination of married women
4 respecting the same; and issue subpoenas for witnesses, and coerce
5 their attendance in any suit pending before him, or any matter
6 in which he may lawfully take depositions.

1 17. The civil jurisdiction of Justices within their several town-
2 ships shall extend to all civil actions for the recovery of money
3 or the possession of property, including actions in which damages
4 are claimed as a compensation for an injury or wrong: provided
5 the amount of money or damages, or the value of the property
6 claimed does exceed one hundred dollars, exclusive of interest
7 and costs; subject nevertheless to the following exceptions:

1 18. They shall not have cognizance of any action—

2 1. to recover damages for an assault, or an assault and bat-
3 tery; or,

4 2. for false imprisonment; or,

5 3. for malicious prosecution; or,

6 4. for slander, verbal or written; or,

7 5. against a justice or other officer for misconduct in office,
8 except as hereinafter provided; or,

9 6. on any contract for real estate; or in which the title to real
10 estate is sought to be recovered or is drawn in question; except
11 actions for trespass on real estate, or damages to the same or to
12 rights pertaining thereto, in which the Justice shall have juris-
13 diction, if the damages claimed do not exceed one hundred dol-
14 lars, and the real estate be in his township, and no claim of title
15 set up by the defendant shall effect the jurisdiction hereby given.

1 19. When the action is on a penal bond, the amount of dam-
2 ages claimed for the breaches alleged, and not the penalty, shall
3 be considered in determining the question of jurisdiction.

1 20. When a balance is found in favor of a party, either by the
2 verdict of a jury, or award of arbitrators, or upon a hearing be-
3 fore the Justice, exceeding the sum for which a Justice is author-
4 ized to give judgment, such party may release the excess and
5 take judgment for the residue.

1 21. If a Justice be a party to the suit, or be interested in the
2 result thereof otherwise than as as a resident or tax payer of the
3 township or county; or be related to either of the parties as
4 father, father-in-law, son, son-in-law, brother, brother-in-law,
5 nephew, uncle or cousin, guardian or ward, he shall not take
6 cognizance thereof. But when the Justice of the proper town-

7 ship is under such disability, any other Justice in the same coun-
8 ty may exercise jurisdiction in the case, if there be no other ob-
9 jection.

1 22. In case of sickness or other disability, or necessary absence
2 of a Justice, at the time appointed for any trial or proceeding be-
3 fore him, another Justice of the same county may, at his request,
4 attend in his place, and shall thereupon become vested with his
5 authority for the time being. The attending Justice shall, in
6 such case make and sign proper entries of the proceedings in the
7 docket of the absent Justice.

1 23. The civil jurisdiction of a Justice shall not extend to any
2 action unless the cause of action arose in his township; or the
3 defendant or one of the defendants resides therein, or being a
4 non-resident of the state is found or has effects or estate within
5 the township.

1 24. When two or more persons are properly made defendants
2 to the suit, and they reside in different townships, the suit may be
3 brought in either township; and the Justice before whom it is
4 brought may direct a duplicate summons to the Constable of any
5 township in the state in which one or more of such defendants
6 reside or are found, and the Constable shall serve the same and
7 make due return thereof. But one day at least shall be allowed
8 in such case, between the issue of the summons and the trial, for
9 every ten miles from the residence of such defendant to the place
10 where the suit is to be tried, computing the distance by the usu-
11 al route of travel; or the plaintiff may at his option, dismiss his

12 suit as to the defendant or defendants not found within the town-
 13 ship where the suit is brought, and proceed against those served.

1 25. If any debtor shall appear before a Justice without process
 2 and confess that he is indebted to another, it shall be lawful for
 3 such Justice on the application of the creditor, to render judg-
 4 ment on such confession against the debtor, for any sum not ex-
 5 ceeding three hundred dollars, including interest to the time of
 6 confession.

1 26. But no judgment shall be rendered on such confession un-
 2 less the following requisites be complied with.

3 1. The defendant must appear personally before the Justice;

4 2. The confession must be in writing signed by the defendant
 5 and filed with the Justice;

6 3. If the confession be for a sum exceeding fifty dollars, it
 7 must be accompanied by the affidavit of the defendant, stating
 8 that he is honestly indebted to the plaintiff in the sum named
 9 in such affidavit, over and above all just demands which he has
 10 against the said plaintiff, and that the confession is not made
 11 with a view to defraud any creditor.

HOW ACTIONS BEFORE JUSTICES ARE COMMENCED.

1 27. Actions before Justices are commenced by summons, or by
 2 the appearance and agreement of the parties without summons.

1 28. In the former case, the action is deemed commenced upon
 2 the delivery of the writ to be served, and the Constable shall
 3 note thereon the time of receiving the same. In the latter case
 4 the action is deemed commenced at the time of docketing the
 5 case.

RIGHT TO APPEAR BY ATTORNEY.

1 29. Any plaintiff or defendant in an action before a Justice,
2 unless he be under twenty-one years of age, may appear and
3 conduct his suit or defence in person, or by agent or attorney.

1 30. A party authorized to appear by agent or attorney, may
2 appoint any person to act as such. The authority may be either
3 written or verbal; but unless the party appear in person before
4 the justice and name the person who is to act on his behalf, the
5 authority must be proved either by the agent or attorney him-
6 self, or other competent evidence, or must be admitted by the
7 opposite party; otherwise, the justice shall not permit any per-
8 son to appear for another.

INFANT PLAINTIFF OR DEFENDANT.

1 31. Where a party to the action is under the age of twenty-
2 one years, a guardian for the suit must be appointed for him by
3 the justice, as follows:

4 1. If the infant be plaintiff, the appointment must be made
5 before the summons is issued, on the application of the infant,
6 if he be of the age of fourteen years or upwards; if under that
7 age, on the application of some friend. The consent in writing of
8 the guardian to the appointment, and his agreement to be re-
9 sponsible for costs if he fail in the action, must be filed with the
10 justice.

11 2. If the infant be defendant, the guardian must be appoint-
12 ed and consent to act as such before the trial. It is the right of
13 the infant defendant to nominate his own guardian, if the infant

14 be fourteen years of age or over, and the proposed guardian be
 15 present and consent to serve. Otherwise, the justice shall ap-
 16 point some suitable person who gives such consent. The guar-
 17 dian for a defendant shall not be liable for any costs in the ac-
 18 tion.

THE SUMMONS—FORM OF.

1 32. The style of the summons shall be, "The State of West
 2 Virginia,-----county." It shall be dated the day it is
 3 issued, signed by the justice issuing the same, and directed
 4 to the constable of the proper township, unless a person be
 5 specially deputed by the justice to serve it, in which case it shall
 6 be directed to such person by name. It must contain the names
 7 of the defendants, if known, or if unknown, give a description
 8 of them. It shall command the constable or person who is to
 9 serve the same to summon the defendants to appear before the
 10 proper justice, at a time and place specified therein, and must
 11 describe the cause of action in such general terms as to apprise
 12 the defendants of the nature of the claim against them, and there
 13 must be stated therein the amount, excluding interest and costs,
 14 for which the plaintiff will claim judgment if the defendants fail
 15 to appear. If they fail to appear, judgment shall not be render-
 16 ed for a larger amount, but interest and costs may be adjudged
 17 in addition to the amount so stated.

1 33. A second and third summons may, if the case so require,
 2 be issued successively, when there has been no service of the pre-
 3 vious summons, or no return made thereof. They shall be en-

4 dorsed by the Justice issuing the same, "second summons" or
5 "third summons," as the case may be. *

SPECIAL CONSTABLE.

1 34. A Justice, whenever he deems it expedient and proper,
2 may, on the request of a party, appoint a special constable to act
3 in a particular cause, or to serve any process or order therein;
4 and the person so deputed shall as to such cause, process or
5 order, have the powers, discharge the duties and receive the fees
6 of the office.

1 35. The Justice shall note such appointment on his docket,
2 and with his sureties, be liable on his official bond for any ne-
3 glect of duty or illegal proceeding of such person, in the matter
4 for which he was deputed.

WHEN DEFENDANTS'S NAME IS NOT KNOWN.

1 36. When the name of a defendant is not known to the plain-
2 tiff, the summons may be issued against such defendant by a fic-
3 titious name, or any description to designate the person inten-
4 ded, and shall not be abated for that cause if served on the prop-
5 er person; but the Justice, when the truth shall appear, may
6 amend the proceedings on such terms as he deems reasonable,
7 and thereafter proceed as if such defendant had been sued in his
8 right name.

RETURN DAY OF SUMMONS.

1 37. The time specified in the summons for the defendant to
2 appear, must be not more than thirty days from its date, except
3 in the case specified in the twenty-fourth section.

SERVICE OF THE SUMMONS.

1 38. If the defendant be found, the summons shall be served
2 by reading the same to him, or, if required, by delivering him a
3 copy thereof; if he be not found, by leaving a copy thereof at
4 his last place of abode, in presence of some one of the family, of
5 suitable age and discretion, who shall be informed of its contents.

1 39. If the defendant, with the intention of returning, have left
2 the township for an uncertain period, or a period extending be-
3 yond the return day thereof the constable being apprised there-
4 of shall not serve the summons by leaving a copy at his place of
5 abode, but shall make return to the justice according to the
6 fact.

1 40. An acknowledgment by a defendant or his attorney, or
2 his voluntary appearance to the action, is equivalent to service.

1 41. A summons against a corporation may be served upon the
2 president, mayor or chief officer thereof; or if there be no such
3 officer, or he be absent, on any officer, director, trustee or agent
4 of the corporation, at its principal office or place of business.

1 42. If the suit be against a bank of circulation, and be brought
2 in a township in which it has a branch, service on the president
3 or cashier of such branch shall be sufficient.

1 43. If the suit be against a foreign corporation doing business
2 in this State, service may be made by leaving a copy of the
3 summons at any office or place of business of such corporation in
4 the township, with any person found in charge thereof.

1 44. When the defendant is a minor under the age of fourteen

2 years, the service must be upon him and upon his guardian or
 3 father; or if neither of these can be found, then upon his moth-
 4 er, or the person having the care or control of such minor, or
 5 with whom he lives. If neither of these can be found, or the mi-
 6 nor be fourteen years of age or over, service on him alone shall
 7 be sufficient.

1 45. When the parties agree to enter without process, before a
 2 Justice, any action of which such Justice has cognizance, such
 3 Justice shall enter the same on his docket, and proceed to trial,
 4 judgment, and execution, in all respects in the same manner as
 5 if a summons had been issued, served and returned.

ARREST OF DEFENDANT BEFORE TRIAL.

1 46. An order for the arrest of a defendant in a civil action,
 2 may be made by the Justice before whom the same is brought,
 3 when there is filed in his office an affidavit of the plaintiff or any
 4 credible person, made before any person authorized to adminis-
 5 ter oaths, showing the nature of the plaintiff's claim, that it is
 6 just, the amount thereof as near as may be, and the existence of
 7 one or more of the following particulars:

8 1. That the defendant has removed or is about to remove any
 9 of his property out of the State, with intent to defraud his cred-
 10 itors; or,

11 2. That he is about to convert his property or any part there-
 12 of, into money or securities, with like intent; or,

13 3. That he has assigned, disposed of or removed his property
 14 or any part thereof, or is about to do so, with like intent; or,

15 4. That he has property or rights in action which he fraudu-
16 lently conceals; or,

17 5. That he fraudulently contracted the debt or incurred the
18 liability for which the action is to be or has been brought.

19 The affidavit shall contain a statement of the facts justifying
20 belief in the particulars alleged therein.

1 47. The order of arrest shall not be issued until there has been
2 executed by one or more sufficient sureties of the plaintiff, a
3 written undertaking to the effect, that the plaintiff will pay
4 the defendant all damages he may sustain by reason of the arrest,
5 should it thereafter appear that the order was wrongfully obtain-
6 ed, not exceeding double the amount of the plaintiff's claim as
7 stated in the affidavit.

1 48. The order of arrest may accompany the summons, or be
2 made at any time afterwards before judgment. It shall not be
3 deemed to authorize an arrest out of the township in which it
4 was issued,

1 49. The order of arrest shall be addressed and delivered to a
2 Constable of the proper township; it shall state the names of the
3 parties, the amount of the plaintiff's claim as stated in the affida-
4 vit, be signed by the Justice issuing it, and shall require the
5 Constable to arrest the defendant and bring him forthwith before
6 the Justice.

1 50. The officer receiving the said order shall forthwith arrest
2 the defendant; and unless the plaintiff's claim and the costs are
3 paid or the defendant is discharged by the order of the plaintiff,

4 shall take him forthwith before the Justice, and keep him in custody until discharged by law,

1 51. Upon return of the said order executed, the trial shall proceed unless for good cause shown, on the application of either
2 party, or at the instance of the Justice himself, the same shall be
3 continued as in other suits before Justices. If the trial be continued or postponed for any period, the defendant shall be discharged from custody upon executing, with one or more sufficient sureties, a written undertaking to the plaintiff, to be filed
4 with the Justice to the effect that if judgment be rendered in the
5 action against the said defendant, he will either satisfy the same or
6 render himself to answer the process on such judgment. But in
7 no case shall the defendant be detained in custody where such
8 continuance is for more than forty-eight hours, unless it was
9 made at the instance or with the consent of the defendant himself.

ATTACHMENT OF DEFENDANT'S PROPERTY AND CREDITS.

1 52. The plaintiff may have an order of attachment against the
2 property of the defendant in a civil action before a Justice, on
3 filing with the Justice his own affidavit, or that of any credible
4 person, made before any person authorized to administer oaths,
5 stating the nature of the plaintiff's claim, that it is just, the amount the affiant believes the plaintiff ought to recover, and the
6 existence of some one or more of the following particulars:

8 1. That the defendant, or one of the several defendants, is a
9 foreign corporation, or is a non-resident of the state; or,

10 2. Has absconded with intent to defraud his creditors ; or,

11 3. Has left his residence in order avoid the service of process ;

12 or,

13 4. So conceals himself that a summons cannot be served upon

14 him ; or,

15 5. Is removing or about to remove his property, or a part

16 thereof, out of the state, with intent to defraud his creditors ; or,

17 6. Is converting or about to convert his property, or a part

18 thereof into money or securities, with like intent ; or,

19 7. Has assigned, disposed of or removed his property or a part

20 thereof, or is about to do so, with like intent ; or,

21 8. Has property or rights in action which he conceals ; or,

22 9. Fraudulently contracted the debt or incurred the liability

23 for which the suit was brought or is about to be brought.

1 53. The order of attachment may be issued whether the action

2 be founded on contract or be brought to recover damages for a

3 wrong, if the Justice have jurisdiction in the case.

1 54. The order may be made at the commencement of the action

2 to accompany the summons, or at any time afterwards before

3 judgment. If issued at the commencement of the action, the

4 return day shall be the same as that of the summons ; when is-

5 sued afterwards, it shall be executed and returned forthwith.

1 55. Unless the ground of attachment is that the defendant, or

2 one of the several defendants is a foreign corporation or a non-

3 resident of the state, the order of attachment shall not be issued

4 until an undertaking, signed by one or more sufficient sureties

5 of the plaintiff, be filed with the Justice, to the effect that the
6 plaintiff will pay the defendant all damages he may sustain by
7 reason of the attachment, not exceeding double the amount of the
8 plaintiff's claim, should it appear thereafter that the order was
9 wrongfully obtained.

1 56. The order shall be addressed and delivered to the proper
2 officer, or to the person deputed to execute the same, and shall
3 command him to attach the personal property and credits of the
4 defendant found within the county and not exempt by law; or so
5 much thereof as will satisfy the plaintiff's claim, with interest
6 and costs. The amount of the plaintiff's claim shall be stated in
7 the order as it is in the affidavit.

1 57. The order of attachment, and the summons, if there be
2 one, accompanying the same, may be executed anywhere with-
3 in the county in which they are issued.

1 58. The person to whom the order is addressed, shall go to
2 the place where the property is to be found, and there, in the
3 presence of one or more credible persons, declare that by virtue
4 of the said order, he attaches the property at the suit of the
5 plaintiff; and with one or more householders of the county, who
6 shall be first sworn by the officer, shall make a true inventory
7 and appraisement of all the property attached, which shall be
8 signed by the officer and householder, and returned to the Jus-
9 tice with the order. Except as heretofore provided, he shall
10 take the property into his custody, and hold it subject to the or-
11 der of the Justice.

1 59. If the defendant or the person in whose possession the
 2 property is found, with one or more sufficient sureties, sign and
 3 file with the Justice at any time before judgment, an undertaking
 4 to the effect that the property so attached, or its appraised value
 5 in money, shall be forthcoming to answer the judgment in the
 6 action, it shall be delivered to him, or permitted to remain in
 7 his possession.

1 60. Different attachments of the same property may be made,
 2 and one inventory and appraisement shall be sufficient. Where
 3 there are several orders of attachment against the property and
 4 credits of the same defendant in the hands of the same officer,
 5 they shall be executed in the order in which they were re-
 6 ceived. The lien of all attachments on property or credits shall
 7 be in the order they are executed.

1 61. Where several attachments are executed on the same
 2 property, or the same persons are made garnishees thereto, the
 3 Justice issuing the attachment which has priority of lien, on mo-
 4 tion of any of the plaintiffs, may determine the amounts and
 5 priorities of the several attachments, and the proceeds shall be
 6 applied accordingly.

1 62. When any order of attachment is issued, it shall be serv-
 2 ed on the defendant, if the same can be done within the county,
 3 in the manner prescribed for the service of a summons ; and the
 4 person to whom the same was delivered to be executed, shall
 5 make return thereof, with all his proceedings in writing, and the
 6 inventory and appraisement of the property, if any be attach-

7 ed. In such return he shall state the names of the garnishees,
8 if any, notified to appear, and the time each garnishee was serv-
9 ed with the order and notice.

1. 63. If it appear by the said return that property has been at-
2 tached or any garnishee notified to appear, but that the order of
3 attachment has not been served on the defendant, the justice,
4 unless the defendant appear to answer the plaintiff's action or
5 confess the same, shall issue a second summons to the defendant,
6 returnable not less than thirty nor more than sixty days after its
7 date, stating that property or credits of the defendant have
8 been attached for the plaintiff's claim; and the person to whom
9 such summons is delivered to be executed, shall forthwith cause
10 a copy thereof to be posted at the front door of the court house
11 and two other public places in the county, and shall serve the
12 same on the defendant, if he can be found in the county before
13 the return day thereof. If such second summons be returned
14 served upon the defendant, or the defendant appear to the ac-
15 tion, or it be returned that, after diligent inquiry, the defendant
16 could not be found within the county, and that copies were post-
17 ed as aforesaid, the justice may proceed to hear and determine
18 the suit as in other cases.

1 64. A judgment obtained before a justice, where the defend-
2 ant shall not have been personally served with either the at-
3 tachment or summons, and shall not have appeared to the action,
4 shall, except as to the property and credits attached, be pre-
5 sumptive evidence only of the indebtedness of the defendant;

6 and the execution issued on such judgment shall not be levied
7 upon any other property or credits than those so attached; nor
8 shall the defendant in such case be barred of any set-off he may
9 have against the plaintiff.

1 65. When the property in the custody of the officer under an
2 order of attachment is of a perishable nature or expensive to
3 keep, the justice may issue his order to the officer to sell the
4 same at public auction, at such time and place as in the said or-
5 der shall be specified; and the proceeds of such sale shall be paid
6 over to the justice, and applied as other money realized from the
7 sale of the property attached is to be applied.

1 66. The officer shall be allowed by the justice the reasonable
2 expenses of executing the order of attachment and keeping the
3 attached property, to be paid by the plaintiff, and taxed in the
4 costs.

GARNISHEE IN ATTACHMENT CASE.

1 67. Where the plaintiff shows, by his own affidavit or that of
2 another, good reason to believe that any person or corporation
3 named in such affidavit, within the county in which the action is
4 brought, has personal property of the defendant in his possession
5 or control, or is indebted to the defendant, whether such debt be
6 due or not, or that any stock in such corporation is held by or
7 for the benefit of the defendant, the Justice in the order of at-
8 tachment, or by endorsement thereon, or by order subsequently
9 issued at any time before judgment in the action, may direct
10 such person or corporation to be served with the order of attach-

11 ment, and with a written notice to appear before the Justice on
12 the return of such order, or such other time as the Justice may
13 specify in the notice, and answer respecting the personal prop-
14 erty of the defendant in their possession or control and the debts
15 they owe him.

1 68. The order of attachment and notice may be served on the
2 garnishee in the same manner as a summons is served.

1 69. The garnishee, in accordance with the notice, shall appear
2 before the Justice, and answer under oath all lawful questions,
3 approved by such Justice, put to him concerning the personal
4 property of the defendant in his possession or control, and the
5 debt owing by him to the defendant; and in the case of a corpo-
6 ration, concerning any stock therein held by or for the benefit of
7 the defendant. Where a corporation is garnishee, the Justice
8 may require any officer thereof designated by him to appear and
9 answer. If the garnishee admit property and credits of the de-
10 fendant to be in his hands, subject to the attachment, sufficient
11 to satisfy the plaintiff's claim, with interest and costs, no further
12 question shall be asked.

1 70. Whatever is in the hands or under the control of the gar-
2 nishee or is due by him, belonging to the defendant or owing to
3 him, interests in real estate excepted, shall be bound by the at-
4 tachment, to the extent of the plaintiff's claim with interest and
5 costs, from the time of the service of the order of attachment
6 and notice.

1 71. A garnishee may pay the money owing to the defendant

2 by him to the officer having the order of attachment, or to the
 3 Justice: and shall be discharged from liability to the defendant
 4 for any money so paid, not exceeding the plaintiff's claim with
 5 interest and costs. He shall not be subject to costs beyond those
 6 caused by his resistance of the claim against himself; and if he
 7 disclose truly the property in his hands or control, and the a-
 8 mount owing by him, and deliver over and pay the same as the
 9 Justice may order, he shall be allowed his costs.

-1 72. If the garnishee, or any officer of a corporation thereto re-
 2 quired by the Justice, fail to appear and answer, the Justice
 3 may proceed against him as for a contempt.

1 73. If it appears by the oath of the garnishee, or other evi-
 2 dence, that the garnishee at the time of the service of the order
 3 of attachment and notice upon him, or afterwards, had in his
 4 possession or control, or owed anything, subject to the attach-
 5 ment, and such debt be due and payable, the Justice may order
 6 the delivery of the property or the payment of the money to
 7 himself or to a constable of the township, unless the garnishee,
 8 or some one for him, with one or more sufficient sureties, sign
 9 and file with the said Justice an undertaking to the effect that
 10 the property and money shall be forthcoming to answer the
 11 judgment in the action.

1 74. If the garnishee fail to appear and answer, or appear and
 2 refuse to answer, or if, having answered, his disclosure is not
 3 satisfactory to the plaintiff, or if he fail to deliver the property
 4 in his possession or control, or pay the money owing by him as

5 the justice may order, or to give the undertaking specified in
6 the preceding section, the plaintiff may proceed against him in
7 an action in his own name, and recover therein the amount owing
8 by the garnishee to the defendant in the original action, and the
9 value of the personal property of the said defendant in the hands
10 of the garnishee, not exceeding however the sum he shall show
11 himself entitled to as against the said defendant, with interest
12 and costs, and the additional costs of the proceeding against the
13 garnishee. The judgment against the garnishee shall be en-
14 forced in the same manner as other judgments of Justices.

1 75. If the plaintiff proceed against the garnishee on the ground
2 that the disclosure was not satisfactory, he shall pay the costs of
3 such action, unless it appear by the evidence that such disclo-
4 sure was incomplete or untrue.

1 76. Final judgment shall not be rendered against the garni-
2 shee, until the action against the defendant in the original suit
3 has been determined; and if in such action, judgment be ren-
4 dered for the said defendant, the attachment shall be discharged
5 (except as provided in the next section,) and the garnishee re-
6 cover his costs. If the plaintiff recover judgment against the
7 defendant in the original suit, and the garnishee deliver over the
8 property and pay the money in his hands belonging or owing to
9 the said defendant, as the Justice shall order, the garnishee shall
10 be discharged, and be allowed his costs out of the property and
11 money surrendered.

APPEAL IN ATTACHMENT CASE.

1 77. If Judgment be rendered in favor of the defendant whose

52 property was attached, the property or its proceeds shall be re-
 3 turned to him; unless the plaintiff within a certain time, to be fix-
 4 ed by the justice, which time shall not exceed two days, give se-
 5 curity for an appeal to the Circuit Court of the county. During
 6 the time so fixed by the Justice, the attachment shall continue
 7 in force; and, in case of an appeal by either party, shall remain
 8 in force until otherwise adjudged by the Circuit Court.

1 78. When the plaintiff shall appeal, he or some one for him,
 2 with one or more sufficient sureties, shall sign and file with the
 3 Justice an undertaking that he will prosecute his appeal to effect
 4 and without avoidable delay, that if judgment be rendered
 5 against him he will satisfy such judgment, and that he will pay the
 6 defendant all damages sustained, if it be adjudged by the Circuit
 7 Court that the order of attachment was wrongfully obtained.

JUDGMENT—HOW ENFORCED.

1 79. If judgment be rendered for the plaintiff against the de-
 2 fendant in the action, it shall be satisfied as follows: So much
 3 of the property remaining in the hands of the officer, (after ap-
 4 plying the money arising from any perishable or other property
 5 and the money received or recovered from the garnishee,) as may
 6 be necessary to satisfy the judgment, shall be sold by order of the
 7 Justice under the same regulations as if it had been levied on by
 8 execution, and the money arising therefrom be applied to satis-
 9 fy the judgment, with the interest and costs.

1 80. The Justice may order the officer to repossess himself, for
 2 the purpose of selling it, of any of the attached property which
 3 may have been delivered or permitted to remain in posses-

4 sion of any person pursuant to the 59th and 73rd sections of this
 5 act; and the officer under such order shall have the same power
 6 to take the property as he would have under an order of attach-
 7 ment. Or the Justice may issue his order to the persons who
 8 signed the undertaking specified in those sections, requiring them
 9 to have the property and money mentioned therein forthcoming
 10 to answer the judgment on or before a certain day to be stated
 11 in such order; which order shall be served in like manner as a
 12 summons; and if the property and money be not delivered and
 13 paid to the Justice or the officer serving the said order, on or be-
 14 fore the return day thereof, the Justice, if good cause be not
 15 shown to the contrary, may render judgment in favor of the plain-
 16 tiff against the persons on whom such order was served, for the
 17 said money and the value of the said property, or so much there-
 18 of as shall be sufficient to satisfy the original judgment with in-
 19 terest and costs thereon, and the costs incurred under the said
 20 order. The judgment so rendered against the said persons may
 21 be enforced as other judgments of Justices.

WHEN THE PROPERTY IS CLAIMED BY ANOTHER.

1 81. If any property which has been attached be claimed by
 2 any person other than the defendant in the action, the right
 3 thereto may be tried as in the case of property taken on an exe-
 4 cution issued by a Justice.

REAL ESTATE—PRIOR LIENS ON PROPERTY ATTACHED.

1 82. No interest in real estate shall be attached under or by
 2 virtue of any order of attachment issued by a Justice or be in
 3 any way bound by the same; and no prior lien on any property
 4 or credits attached shall be impaired by the attachment.

HOUSE BILL No. 144.

A BILL FOR THE EDUCATION AND SUPPORT OF THE BLIND.

Be it enacted by the Legislature of West Virginia:

1 The Governor of this State is hereby directed
2 to contract with some humane asylum, outside
3 of this State, for the care, education and sup-
4 port of the indigent blind of this State, who
5 are unable to educate themselves, or where pa-
6 rents are unable to do it for them ; and the sum
7 of three thousand dollars is hereby appropria-
8 ted out of any money in the treasury not oth-
9 erwise appropriated, for that purpose.

HOUSE BILL No. 145.

**A BILL AUTHORIZING THE PUBLICATION
OF AN EXTRA NUMBER OF THE LAWS.**

Be it enacted by the Legislature of West Virginia:

1 The Public Printer is hereby authorized to
2 print two thousand five hundred copies, in
3 pamphlet-form, of the laws of a general nature,
4 passed at the present session of the Legisla-
5 ture, at a cost not exceeding seventeen cents
6 per copy, to be delivered by him to the mem-
7 bers of the House of Delegates in numbers pro-
8 portioned to the population of the counties rep-
9 resented by them, for distribution among the
10 voters of their several counties.

HOUSE BILL No. 146.

**A BILL FOR THE RELIEF OF UNION MEN
WHO HAVE BEEN ROBBED OF THEIR
PROPERTY.**

Be it enacted by the Legislature of West Virginia:

1 1. Where Union men have been robbed of
2 their property by the rebels, and owe debts to
3 the rebels who have aided in this rebellion, they
4 may put such property with the damages into
5 said debts; provided, that such property and
6 damages be proven.

1 2. No property, either real or personal be-
2 longing to soldiers who have served out their
3 term of enlistment in the service of the United
4 States, shall be taken to pay debts owed to
5 rebels.

HOUSE BILL No. 147.

A BILL MAKING APPROPRIATIONS.

Be it enacted by the Legislature of West Virginia :

1 1. There is hereby appropriated for the purposes herein spe-
2 cified, the following sums, viz:

3 For expenses of the Legislature, for the session com-

4 mencing the 20th of June 1863, including pay of

5 officers, printing, stationery, rent of Lindsley In-

6 stitute from 20th June to 5th December, 1863,

7 furniture, flag, &c., ... \$35,000 00

8 For salaries of officers of civil government, ... 1,000 00

9 For salaries and mileage of Judges of Supreme court

10 of Appeals, and Judges of Circuit courts, ... 7,000 00

11 For the salary of the Clerk of the Supreme court of

12 Appeals.. 500 00

12 For contingent expenses of courts, ... 1,000 00

13 For Criminal charges, including witnesses, jurors, and

14 jailors' fees,. 2,000 00

15 For expenses of convicts in jail prior to the 20th of

16 June 1863,.. 1,000 00

17 For expenses of convicts in jail since the 20th of June

18 1863, ... 1,500 00

19 For expenses of Lunatics in asylums in other states,

20 in jails and other places, ... 2,000 00

21	For contingent expenses of Auditor's office, including	
22	stationery, printing, books, postage and fuel,.....	2,000 00
23	For Public printer,.....	1,500 00
24	For salary of Quarter Master General,.....	500 00
25	For contingent expenses of Quarter Master General's	
26	office, ...	1,000 00
27	For salary of clerk in Auditor's office, ...	300 00
28	For salary of clerk in Adjutant General's office,.....	300 00
29	For salary of vaccine agent,.....	100 00
30	For expenses of procuring seals and presses for State	
31	courts, and recorders,.....	1,200 00
32	For expenses of Coroner's inquests,.....	200 00
33	To pay militia claims provided for by act passed 19th	
34	November, 1863, entitled "An act providing for	
35	the payment of certain militia claims allowed by	
36	regimental courts, ...	6,000 00
37	To John W. Boner, commissioner for taking soldiers	
38	vote on amended constitution, ...	22 60
39	To John S. McDonald, for same kind of services,....	40 00
40	To Henry Startzman, for same kind of services, ...	40 00
41	To M. B. Reed, for same kind of services, ...	34 00
42	To John Bowyer, for same kind of services,.....	32 00
43	To J. P. B. R. Smith, for same kind of services, ...	32 00
44	To S. G. W. Morrison, for same kind of services,.....	28 00
45	To John Goudy, for same kind of services,.....	30 00

46	To Sylvanus W. Hall, for same kind of services,.....	60 00
47	To D. S. Montague, for same kind of services,.....	52 00
48	To Joseph Odell, for printing Governor's proclama-	
49	tion for Executive committee,..	12 00
50	To Campbell and McDermot, for printing for Execu-	
51	tive committee in May and June 1863,.....	215 00
52	For expenses of holding election on the 26th of March	
53	1863, on the amended constitution in Wirt county,	12 00
54	For expenses of holding election on the 26th March	
55	1863, on amended constitution in Jackson county,	72 00
56	To C.M. Rice, John H. Wetzel and David Woodruff of	
57	Jackson county for holding an election for Senator	
58	by order of Governor Pierpoint, in June, 1861,.....	25 00
59	To Joseph Jenkins of Preston county, for claim audit-	
60	ed and allowed by Joint committee on claims,.....	92
61	To Alfred T. Holt of Preston county, for claims audit-	
62	ed and allowed by same committee, ...	193 87
63	To Matthias F. Stuck of Preston county, for claim au-	
64	dited and allowed by same committee,.....	12 80
65	To William T. Frailey of Preston county, for claim	
66	audited and allowed by same committee,.....	21 65
67	To William L. Fansler of Preston county, for claim	
68	audited and allowed by same committee,.....	12 79
69	To Samuel N. Pearce of Preston county, for claim	
70	audited and allowed by same committee,.....	5 00

71	To James Miller of Preston county, for claim audit-	
72	ed and allowed by same committee, ...	12 30
73	To Smith Crane of Preston county, for claim audited	
74	and allowed by same committee, ...	22 59
75	To Lydia Hethrington of Preston county, for claim	
76	audited and allowed by same committee, ...	27 30
77	To James H. Manown of Preston county, for claim	
78	audited and allowed by same committee, ...	30 00
79	To Zacob Weaver of Preston county, for claim audit-	
80	ed and allowed by same committee, ...	47 25
81	To Joseph Brown of Preston county, for claim audit-	
82	ed and allowed by by same committee, ...	29 39
83	To William Ewing of Ohio county, on claim audited	
84	and allowed by same committee, ...	40 25
85	To A. Brooks Fleming of Marion county, for claim	
86	audited and allowed by same committee, ...	7 00
87	To J. M. McWhorter of Roane county, on claim au-	
88	dited and allowed by same committee, ...	32 74
		\$65,302 45

HOUSE BILL No. 149.

A BILL TO ASCERTAIN THE LOSSES OF UNION CITIZENS AND PROVIDE FOR PAYING THE SAME.

Be it enacted by the Legislature of West Virginia :

1 1. It shall be the duty of the Governor to appoint one or
2 more commissioners in each county of the State, whose duty it
3 shall be to ascertain who of the loyal citizens of their respective
4 counties have lost money or property by armed rebels since the
5 beginning of the present rebellion.

1 2. The commissioner shall give notice through the newspa-
2 pers of their county, or by posting a notice in three or more
3 public places in said county, that he will on a certain day, not
4 more than thirty days after the date of notice, proceed to in-
5 quire into, and ascertain upon evidence, the claims of all citi-
6 zens of his county who claims that his or her losses of whatever
7 character has been caused by armed rebels distroying or taking
8 their property by force.

9 The commissioner shall report the result of his investigations
10 in each and every case separately to the Governor, who, after
11 examination of the papers, in each case, may order payment out
12 of any money in the Treasury of the State, arising out of the sales
13 of property forfeited by an act entitled "an act to provide for
14 the forfeiture of property within this State belonging to the en-
15 emies thereof," passed on the 13th day of November, 1863.

HOUSE BILL No. 150.

**A BILL FIXING THE LIMIT FOR ALLOW-
ANCES TO RECORDERS.**

Be it enacted by the Legislature of West Virginia:

1 The recorders shall be allowed annually, by the
2 boards of supervisors of their respective counties
3 for their public services (for which no other fee
4 or reward is allowed by law) to be paid out of
5 the county treasury, such sums as the said boards
6 deem reasonable, to-wit: Not less than \$— nor
7 more than —— dollars.

HOUSE BILL No. 151.

A BILL FURTHER TO REGULATE THE POWERS AND DUTIES OF JUSTICES AND CONSTABLES.

Be it enacted by the Legislature of West Virginia :

THE PLAINTIFF MUST SUE FOR HIS WHOLE CLAIM.

1 1. When the plaintiff has several demands against the same
2 defendant, founded on judgment, or on contract express or im-
3 plied, he must bring his action for the whole amount due and
4 payable at the time such action is commenced. If he brings it
5 for part only, the judgment in the suit, whether in his favor or
6 against him, shall forever preclude him from recovering the
7 residue.

SECURITY FOR COSTS.

1 2. If a person who intends to bring an action before a Justice
2 is not a resident of the township, or for other reasons the Justice
3 deems it proper to do so, he may require security for costs, be-
4 fore issuing the summons. And when the plaintiff, after the
5 suit is begun, removes from the county, the Justice may also re-
6 quire security as well for the costs already accrued, as for those
7 that may accrue thereafter. If the plaintiff, being notified of
8 such requirement, fail to comply therewith, the Justice may dis-
9 miss the suit and give judgment against him for costs.

1 3. Security for costs may be given, either by depositing with
2 the Justice such sum as the latter shall deem sufficient, or by
3 signing, with one or more sufficient sureties, an undertaking to
4 pay to the Justice the costs when demanded.

1 4. When such undertaking has been given, the Justice, on no-
2 tice, or summons, served on the persons who signed the same or

3 any of them, may render judgment against the person or persons
 4 so served, for the costs remaining unpaid, together with the costs
 5 of the proceeding against such person or persons; and such judg-
 6 ment may be in his own name, and may be enforced in the same
 7 manner as other judgments.

STATEMENT OF THE CAUSE OF ACTION, OR DEFENCE.

1 5 In every action before a Justice, the plaintiff, at or before
 2 the time the summons is to be returned, shall file with the justice
 3 a statement of the grounds of his action, or a bill of particu-
 4 lars of his claim; and the defendant, before the trial, shall file in
 5 like manner a statement of the grounds of his defence, or a bill
 6 of particulars of the credits, set-offs or counter claims on which
 7 he intends to rely.

1 6. The statement, or bill of particulars, must show in a plain
 2 and direct manner the facts constituting the cause of action or
 3 defence, so as to enable a person of common understanding
 4 and information to know what is intended.

1 7. In an action or set-off on an account, or on an instrument
 2 under seal or without seal, for the payment of money only, it
 3 shall be sufficient to file the same, with a memorandum stating a
 4 specified sum to be due thereon.

1 8. If either party claim on a bond or instrument with condi-
 2 tion, it shall be sufficient to file the bond, or a certified copy
 3 thereof, and a brief memorandum showing the particulars in
 4 which it is alleged to be broken, and the amount of damages
 5 claimed for such breaches of the condition.

1 9. The evidence at the trial shall be confined to the matters
 2 set forth as aforesaid; but any variance between the proof and
 3 the bill of particulars or statement of either party, shall be dis-
 4 regarded as immaterial, unless the Justice believes the adverse
 5 party has been misled thereby to his prejudice.

1 10. The statement or bill of particulars of either party may
 2 be amended, or an omission therein supplied, at any time before
 3 trial, or during the trial, at the discretion of the Justice, if he
 4 believe substantial justice will be promoted thereby. He may
 5 require as a condition, the payment of costs to the adverse par-
 6 ty; and if it appear that a continuance ought to be granted to
 7 the adverse party in consequence thereof, it shall be so granted.

1 11. If the action of the plaintiff, or the credit or set-off of the
 2 defendant, be founded on any bond, promissory note, bill of ex-
 3 change or other instrument of writing, it shall be filed with the
 4 Justice; and when judgment is rendered, he shall endorse thereon
 5 the title of the suit, and the amount allowed in the judgment to
 6 the plaintiff or defendant on account of the same. If the in-
 7 strument be payable in instalments, he shall also specify in the
 8 endorsement for which of the instalments such allowance was
 9 made. And no suit or suits shall thereafter be instituted be-
 10 tween the same parties, or those claiming under them, for the
 11 matter so adjudged and decided. The Justice shall retain the in-
 12 strument, and file it with the papers relating to the suit, unless
 13 an appeal be taken from the judgment, in which case the same
 14 shall be transmitted to the Clerk of the Court to which the

15 suit is transferred by the appeal; or, unless he grant leave to the
 16 person entitled thereto to withdraw such instrument, on filing a
 17 copy, for the purpose of recovering another instalment, or bring-
 18 ing suit thereon against a different party.

SET-OFF.

1 12. If the plaintiff's demand in the action be founded on judg-
 2 ment, or contract express or implied, the defendant, in the fol-
 3 lowing cases, may set-off demands which he has against the
 4 plaintiff:

5 1. The demand to be set off must be founded on judgment, or
 6 contract express or implied;

7 2. If it be founded on a bond, or other contract sealed or with-
 8 out seal, having a penalty, the sum equitably due by virtue of its
 9 condition, and not the penalty, shall be set off;

10 3. It must have belonged to the defendant at the time the
 11 plaintiff's suit was commenced;

12 4. If the plaintiff's demand be against several defendants, the
 13 set-off must have belonged to all the said defendants jointly, at
 14 the time the suit was commenced;

15 5. If there be several plaintiffs suing jointly, the set-off must
 16 be a just demand against them all;

17 6. If the plaintiff be merely a trustee for another, or if the suit
 18 be in the name of a plaintiff who has no real interest in the claim
 19 sought to be thereby enforced, the set-off must be a just claim
 20 against those whom the plaintiff represents and for whose benefit

21 the suit was brought. A claim against the nominal plaintiff shall
22 not in such case be allowed as a set-off;

23 7. In suits brought by executors or administrators for any
24 cause of action existing at the time of the death of the person they
25 represent, whether then due and payable or not, the set-off must
26 be a just claim against the deceased, or against his estate in the
27 hands of the said representatives. But if such suit be founded
28 on any transaction or contract subsequent to the death of the
29 testator or intestate, claims against him which existed in his life-
30 time shall not be set-off without the assent of his executors or
31 administrators;

32 8. The claim to be set-off must have been due and payable at
33 the commencement of the action.

1 13. To entitle the defendant to a set-off, he must file a state-
2 ment or bill of particulars thereof, specifying the nature of his
3 claim with reasonable certainty; but such statement or bill may
4 be amended as hereinbefore provided.

1 14. If the amount of the set-off be equal to the plaintiff's debt,
2 judgment shall be entered for the defendant, with costs. If it,
3 be less, the plaintiff shall have judgment for the residue only,
4 with costs. If it be more, and the balance found due to the de-
5 fendant from the plaintiff do not exceed one hundred dollars,
6 exclusive of interest and costs, or the defendant release the ex-
7 cess, judgment shall be rendered for the proper amount, with
8 costs, in favor of the defendant, and execution be awarded there-
9 on as if the judgment had been obtained in a suit brought by
10 him.

1 15. If the balance found due the defendant exceeds the amount
2 to which the jurisdiction of the Justice is limited, and the de-
3 fendant do not release the excess, judgment shall be rendered
4 for the defendant with costs; and the defendant may there-
5 after recover the balance due him in any court having jurisdic-
6 tion.

1 16. If the defendant, at the time the plaintiff's action is com-
2 menced, has any credit, set-off or counter-claim to allege in de-
3 fence or reduction of the plaintiff's demand, and be personally
4 served with process in the suit, he shall produce the same with
5 his evidence in support thereof, in the cause; or be forever pre-
6 cluded from maintaining any action for the recovery thereof.

1 17. The preceding section shall not, however, apply to the
2 following cases:

3 1. When the set-off shall exceed the plaintiff's demand more
4 than one hundred dollars exclusive of interest; in which case the
5 person to whom it is owing may, at his option, sue for the whole
6 amount in any court having jurisdiction;

7 2. When the set-off consists of a judgment rendered before the
8 commencement of the suit in which the same might be set-off;

9 3. Claims in suit before any other court or justice at the time
10 of the commencement of the action.

1 18. In all cases in which a defendant, has filed a set-off, he
2 may proceed to trial though the plaintiff fail to appear or dis-
3 continue or withdraw his action.

CONTINUANCES.

1 19. On the day the summons is returnable, the defendant, upon
2 making oath that he has a just defence to the suit, or is justly
3 entitled to credits or set-offs, not mentioned in the plaintiff's
3 statement or bill of particulars, may demand of right a continu-
4 ance of the cause for not more than seven days.

1 20. On the said return day, if the defendant be not in custody,
2 the justice may, without the consent of either party, continue
3 the cause for not over seven days; but he shall not exercise this
4 privilege at any other time, unless in case of sickness or strong
5 necessity. If the defendant be in custody, the cause shall not be
6 continued for more than forty-eight hours, without his consent.

1 21. When the defendant is not in custody, the justice, on the
2 return day, or any subsequent time appointed for the hearing,
3 may continue the cause, on application of either party without
4 the consent of the other, on the applicant showing by his own
5 oath, or otherwise, that he cannot safely proceed to trial for
6 want of some material paper, evidence or witness, and that he
7 has used reasonable diligence to procure the same, and will prob-
8 ably be able to do so, if time be granted. The continuance shall,
9 in such case, be for a reasonable time to enable the applicant to
10 obtain the paper, evidence or witness referred to.

1 22. But unless both parties consent, no continuance shall be
2 granted to a time beyond three months after the return of the
3 summons served.

1 23. No continuance shall be allowed a defendant without the

2 consent of the plaintiff, except as directed in the nineteenth sec-
 3 tion, until he shall have filed a bill of particulars of the credits,
 4 set-offs or counter claims, if any, on which he intends to rely, or
 5 stated the grounds of his defence, as far as may be in his power,
 6 to the satisfaction of the justice.

1 24. Every continuance on the application of a party shall be at
 2 his costs; unless when one party has subpcœnæd his adver-
 3 sary to testify as a witness, and he fails to attend or refuses to
 4 testify. If the cause is continued on account of such failure or
 5 refusal, the party subpcœnæd shall pay the costs occasioned
 6 thereby.

1 25. If the cause be not continued, the trial shall take place
 2 on the return day of the summons, if the same has been served;
 3 or at the time set for trial when the last previous continuance
 4 was made.

1 26. No suit shall be discontinued on account of the absence of
 2 the justice. If he fail to attend, on the return day of the sum-
 3 mons, or at the time to which the suit stands continued, any
 4 other justice of the same county may attend and continue the
 5 case for not exceeding thirty days; and if he do so, shall make
 6 and sign an entry thereof on the docket of the absent justice.
 7 If not continued by another justice as aforesaid, it shall stand
 8 adjourned for one week, and so on from week to week till dispo-
 9 sed of.

APPEARANCE—DEFAULT OF THE PARTIES.

1 27. The parties are entitled to one hour in which to appear,
 2 after the time for appearance mentioned in the summons or order

3 of continuance. Neither shall be bound to wait for the other
 4 longer than that time; and at the end of the hour, or sooner, if
 5 both parties be in attendance, the justice shall proceed in the
 6 cause, unless at the time engaged in the trial of another suit.

1 28. Judgment shall be rendered against the plaintiff dismiss-
 2 ing the action with costs, without prejudice to a new suit for the
 3 same cause, in the following cases:

4 1. If he fail to appear to prosecute his suit within one hour
 5 after the time for appearance mentioned in the summons or in
 6 the order of continuance;

7 2 If he discontinue or withdraw his action; or,

8 3 If it appear that the action is brought in the wrong town-
 9 ship, or, that the justice for any other reason has not jurisdiction.

1 29. The judgment against the plaintiff for failure to appear
 2 may be set aside by the Justice, within seven days after it is ren-
 3 dered, on such conditions as he may see fit to impose; but the de-
 4 fendant must have notice of the motion to set aside such judg-
 5 ment and an opportunity to be heard in opposition thereto.

1 30. When a defendant does not appear and answer, the plain-
 2 tiff cannot recover without proving his case. The justice, if the
 3 process has been served on the defendant, shall in such case pro-
 4 ceed to hear the allegations and evidence of the plaintiff and
 5 render judgment as the right shall appear.

1 31. When the summons is issued against two or more defen-
 2 dants but is not served upon all of them, and those not served do
 3 not appear and answer, the plaintiff at his option may have a sec-

4 and or third summons against those not previously served, and
 5 the Justice in such case shall continue the cause for the return
 6 thereof; or the plaintiff may dismiss his suit as to the defen-
 7 dants not served and proceed against the others.

1 32. When the defendant does not appear and judgment is ren-
 2 dered against him in his absence, the Justice may set aside the
 3 judgment within ten days thereafter, on motion of the defendant
 4 and payment of costs. But of such motion, reasonable notice
 5 must be given to to the plaintiff; and the judgment shall not be
 6 set aside, unless the defendant makes oath that he has a lawful
 7 defence to the action, or is entitled to some credit, set-off or
 8 counter claim which has not been allowed him; and shows by his
 9 own oath, or otherwise, reasonable cause why he did not appear.
 10 When the judgment is so set aside, the Justice shall set a day for
 11 the trial, of which the plaintiff if not present, must have at
 12 least three days' notice. If judgment be entered a second time
 13 against the defendant, in his absence, it shall not be again set
 14 aside.

TRIAL—THE JURY.

1 33. At the time appointed for the hearing, if a jury be not
 2 demanded by either party, the Justice shall hear the proofs and
 3 give judgment as the law and the evidence shall require.

1 34 Either party to a civil suit before a Justice, when the val-
 2 ue in controversy or the damages claimed exceed twenty dollars
 3 shall be entitled to a trial by six jurors, if demanded under the
 4 regulations herein prescribed.

1 35. The demand must be made before the Justice has com-
 2 menced an investigation of the merits of the case, by the exami-
 3 nation of any witness or the hearing of other evidence; and the
 4 party who makes the demand must first file his statement or bill
 4 of particulars showing the grounds of his action or defence, if
 6 he has not already done so.

1 36. The party demanding the jury must deposit with the Jus-
 2 tice a sum of money sufficient, in the opinion of the Justice, to
 3 cover the costs of such jury.

1 37. When a jury is to be called, the cause shall be continued
 2 until a time fixed for the return of the jury. If neither party
 3 show good cause for a later day, the jury shall be returned on
 4 the same day or within the next two days.

1 38. The names of least eighteen persons, designated by the
 2 Justice, shall be by him, or under his direction and inspection
 3 written on separate pieces of paper or ballots, of the same size
 4 and appearance, which shall be folded or rolled so that the names
 5 cannot be seen, and that, as far as possible, one cannot be dis-
 6 tinguished from another. The ballots, so folded or rolled shall
 7 be put into a box and be well shaken or mixed together. The
 8 Justice shall then, in the presence of the parties, their agents or at-
 9 torneys, draw out one of the ballots, and if no just exception be
 10 shown by either party, shall enter the name written on such bal-
 11 lot on the list of jurors to be summoned; and so shall proceed till
 12 number of names on the list amounts to six.

1 39. The persons whose names are put into the box as aforesaid

2 must be voters of the township, not exempt from serving on ju-
3 ries in the Circuit court, and not of kin to to the plaintiff or de-
4 fendant, or interested in the suit.

1 40. The Justice shall then issue a *venire* or summons, directed
2 to a constable of the township or any person deputed by the
3 Justice to serve the same, commanding him to summon the six
4 persons so selected to appear at the time and place therein sta-
5 ted, to serve as a jury in the trial of the action between the plain-
6 tiff and defendant.

1 41. the officer shall serve such *venire* by personal service on the
2 jurors therein named, and return the same, endorsed by him with
3 the names of the persons so summoned, at the time and place
4 appointed for the trial.

1 42. Any person so summoned who fails to appear, without a
2 sufficient excuse, or when in attendance, refuses to serve on the
3 jury, shall be liable to the like penalty, and may be proceeded
4 against in the same manner as a witness who neglects or refuses
5 to attend before a justice when subpoenaed.

1 43. If a sufficient number of competent jurors be not obtained
2 as aforesaid, the justice, in order to supply the deficiency, may
3 direct the constable, or person deputed, to summon any of the
4 by-standers, or other persons, to serve as jurors.

1 44. Before the jury are sworn, either party may allege any
2 lawful exception to any one or more of them, unless the same ex-
3 ception was made, at the drawing, to the same person, and then
4 overruled by the justice. The jurors proposed shall be subject

5 to the same exceptions as jurors in the Circuit Court. The ques-
 6 tion arising on the exception shall be determined by the justice,
 7 who may examine the juror, and any witness, under oath, in re-
 8 lation thereto. If the exception to a juror be sustained, another
 9 shall be called in his stead.

1 45. The jury shall be sworn, by the justice, well and truly to
 2 try the matter in difference between the plaintiff and defend-
 3 ant, and a true verdict give according to the evidence.

1 46. After the jury are sworn, they shall sit together and hear
 2 the allegations and proofs of the parties, which shall be deliver-
 3 ed publicly in their presence; and when they have heard the
 4 same, they shall be kept together in some convenient place un-
 5 der charge of a constable, or person deputed by the justice, until
 6 they have agreed on their verdict or are discharged by the jus-
 7 tice.

1 47. When they have agreed on their verdict, they shall de-
 2 liver it publicly to the justice, signed by one of their number as
 3 foreman; and the justice shall enter the same at full length on
 4 his docket.

1 48. Whenever the justice is satisfied the jury cannot agree, he
 2 may discharge them, and issue a new *venire* returnable within for-
 3 ty-eight hours, unless the parties agree on a longer time, or agree
 4 that the justice may himself render judgment on the evidence
 5 already heard before him; which, in such case, he may proceed
 5 to do.

1 49. On the verdict being delivered to the Justice, each juror
 2 shall be entitled to receive from him fifty cents out of the mo-

3 ney deposited in his hands by the party who demanded the jury.
4 When the jury are unable to agree, the same compensation shall
5 be paid them out of the said money. If the final judgment in
6 the action be in favor of the party who demanded the jury, the
7 amount so paid shall be included in the costs awarded against
8 the adverse party; unless it be manifest to the Justice that a jury
9 was demanded with a view to increase the costs, and not for any
10 just and proper purpose.

1 50. If the justice believe the verdict to have been procured
2 by fraud or undue means, or to be the result of partiality or
3 prejudice, or to be manifestly contrary to the law or the evi-
4 dence, he may, at any time within seven days thereafter, on the
5 motion of either party, set it aside. In such case, he shall ap-
6 point a time for a new trial, and issue a *venire* for another jury.
7 The adverse party must, however, have reasonable notice of such
8 motion, unless the same is made on the day when the verdict is
9 rendered, and in his presence.

ARBITRATORS.

1 51. At any time before judgment, the plaintiff and defendant
2 may, by mutual agreement, have the cause submitted to the
3 arbitrament of three disinterested men, chosen by themselves;
4 and if the arbitrators be present, they shall hear and determine
5 the matters in difference between the parties, being first sworn
6 by the Justice impartially to decide the same according to the
7 law and the evidence. But if they be not present, a time and
8 place shall be appointed by the Justice for the trial, unless the

9 parties agree upon the same, and the Justice shall issue a sum-
10 mons to the arbitrators to attend, which summons may be serv-
11 ed by the constable, or by the parties, as they may agree. The
12 The fees of arbitrators shall be the same as those of jurors.

1 52. When the arbitrators attend, being first sworn as afore-
2 said, they shall hear and determine the cause, and make out
3 their award in writing, (which shall be valid when signed by
4 any two of them,) and return the same to the Justice, who shall
5 enter a note thereof on his docket, and render judgment there-
6 on, and issue execution as in other cases.

1 53. Every judgment on such award shall conclude the rights
2 of the parties, unless, within ten days from the rendition of such
3 judgment, it be made to appear to the satisfaction of the Jus-
4 tice, or afterwards to the Circuit Court on appeal, that the award
5 was obtained by fraud, corruption or other undue means. In
6 such case the award and judgement may be set aside by the Jus-
7 tice or Court, and the cause be tried as if the arbitration had
8 not been agreed upon.

1 54. No appeal shall be granted to the Circuit Court from a
2 judgment of a Justice rendered on an award as aforesaid, unless
3 the party praying such appeal, and otherwise entitled to it,
4 makes oath that he verily believes such award to have been ob-
5 tained by fraud, corruption or other undue means.

1 55. If after the arbitration has been agreed upon as aforesaid,
2 the award be not returned to the Justice within fourteen days,
3 the Justice, on the application of either party, the other ha ing

4 reasonable notice, may in his discretion set aside the agreement,
5 and thereafter proceed to trial and judgment as in other cases.

WITNESSES—EVIDENCE.

1 56. A Justice may issue subpoenas to compel the attendance of
2 witnesses to give evidence in any action pending before him; and
3 such subpoenas may be served anywhere within the county.

1 57. A subpoena may be served by a constable, or any other
2 person; and shall be served by reading the same, or stating the
3 contents thereof to the witness, or by leaving a copy thereof at
4 his usual place of abode.

1 58. Whenever either party, in action pending before a Justice;
2 makes oath that the testimony of a witness residing in any coun-
3 ty adjoining that in which the suit is pending, is material and ne-
4 cessary to him in the trial of the cause, stating in such affidavit
5 the facts he expects to prove by such witness, the Justice shall
6 continue the cause at the costs of such party for a period not ex-
7 ceeding two weeks, and forthwith issue a subpoena for such wit-
8 ness, which subpoena may be addressed to any constable of the
9 township in which the witness resides, or be served by any oth-
10 er person, as in other cases.

1 59. A witness is entitled, at the time the subpoena is served,
2 to demand payment of his legal fees for traveling to and from
3 the place of trial and one day's attendance. If he demand
4 them and they are not paid, he is not obliged to attend the trial
5 before the Justice.

1 60. A person attending as a witness, under a subpoena, shall

2 be allowed fifty cents for each day's attendance, and five cents
 3 for each mile necessarily traveled to the place of attendance
 4 and the same for returning.

1 61. If a witness attend on subpoena and be not examined by
 2 either party, the costs of such witness shall be paid by the party
 3 ordering the subpoena, unless the adverse party, by confessing
 4 the matter or otherwise, render such examination unnecessary.

1 62. Any party calling more than two witness to any fact
 2 which is not contradicted by another witness, shall pay the costs
 3 of such additional witnesses.

1 63. No claim for attendance shall be allowed a witness unless
 2 made before judgment is entered.

1 64 Whenever it shall appear to the satisfaction of a Justice that
 2 any person has been duly served with a subpoena to give evi-
 3 dence before him in any matter in which he has authority to re-
 4 quire such witness to appear and testify; that his evidence is
 5 material; and that he neglects or refuses to attend as required
 6 by such subpoena, the Justice may issue an order of arrest against
 7 such person, if found within the county, unless it appear that
 8 under the provisions of the fifty-ninth section he was not bound
 9 to attend.

1 65. When a person so arrested is brought before the Justice,
 2 and no sufficient excuse is shown for his neglect or refusal to
 3 obey the subpoena, or when a person in attendance refuses to
 4 testify, the Justice may impose a fine on him, not exceeding five

5 dollars and the costs of the arrest and proceeding. An entry
6 of such fine, stating the reason therefor, must be made by the
7 Justice in his docket, and shall have the effect of a judgment
8 in favor of the State of West Virginia, and may be enforced as
9 other judgments of Justices.

1 66. When the witness was subpoenaed to attend a trial out of
2 the county where he resides, the order of arrest must be issued
3 and the fine be imposed by the Justice of the township in which
4 such witness resides or was served with the subpoena, on proper
5 evidence of the default.

1 67. Every person subpoenaed as aforesaid and neglecting or
2 refusing to appear and testify without sufficient excuse, and every
3 person present at the trial and refusing to testify shall also be
4 liable to the party requiring his evidence, for all damages such
5 party may sustain thereby.

1 68. Either party to a civil suit before a Justice may require
2 the adverse party, or the person for whose benefit such suit is
3 being prosecuted or defended in opposition to himself, to testify
4 as a witness at the trial, or by deposition, in like manner and
5 subject to the same rules as other witnesses; or such adverse
6 party or person may be required to answer interrogatories in
7 writing pertinent to the matter in difference, approved and al-
8 lowed by the Justice. No such testimony shall be used in any
9 other suit or proceeding, civil or criminal, against the party or
10 person so testifying or answering.

1 69. When the person so required to testify or answer inter-

2 rogatories, fails or refuses so to do, having been subpoenaed for
 3 the purpose, or notified of the requirement, he may be arrested
 4 and fined as a delinquent witness; and if he be plaintiff in the
 5 action, or the suit be prosecuted for his benefit, the Justice may,
 6 in his discretion dismiss the same and give judgment against
 7 him for costs: or, if he be defendant, may proceed as if the plain-
 8 tiff's demand was confessed.

1 70. No affidavit or deposition of any person shall be given in
 2 evidence on the trial on behalf of either party, if the other object,
 3 unless the party against whom it is offered had reasonable notice
 4 of the taking thereof, and was allowed to attend and freely cross
 5 examine the affiant or witness, subject to the rules of law.

1 71. If a witness offered at the trial be objected to as incompe-
 2 tent, the objection shall be tried and determined by the Justice.
 3 The proposed witness may be examined on oath touching the
 4 question of his competency, and other evidence may be given in
 5 support of or against the objection.

1 72. The following persons are incompetent to testify:

2 1. A person interested in the result of the suit which is being
 3 tried, unless such interest be released or discharged, or he be
 4 proposed as a witness by the party against whom he is interest-
 5 ed, or such party do not object to his examination.

6 2. persons of unsound mind; and children who appear incapa-
 7 ble of receiving just impressions of their obligation to tell the
 8 truth or of the facts respecting which they are to be examined.

9 3. Husband and wife, either for or against each other; or con-

cerning any communication made by one to the other during the marriage, whether called to testify while the relation subsists, or after it is dissolved.

4. An attorney without his client's consent, concerning any communication made to him by his client touching the matter in which he is consulted or employed, or any counsel or advice given by him to his client.

5. A minister, clergyman or priest of any religious denomination concerning any confession made to him according to the course of discipline enjoined by the church to which he belongs.

73. A party to the suit, or person having an interest in the result thereof, may be a witness to prove the loss of any paper which may come in question at the trial, in order to allow the introduction of secondary evidence of its contents; or to prove the death or absence from the county of a subscribing witness in order to allow the introduction of other evidence of the execution of any instrument.

74. The execution of any written instrument or of any assignment or endorsement thereof, produced at the trial, need not be proved, unless the adverse party makes oath that he does not believe the same to be genuine.

75. Depositions of witnesses residing out of the county, or sick or otherwise unable to attend, or about to leave the county, may be taken by either party on reasonable notice to the other, to be used in trials before a Justice; and no commission shall be necessary.

1 76. Such deposition shall be sent under seal to the Justice be
 2 fore whom the case is to be tried, the officer taking the same wri-
 3 ting his name across the place where it is sealed. And if the
 4 witness at the time of the trial be absent from the county, or sick
 5 or otherwise unable to attend, which facts may be shown by the
 6 oath of a party to the suit, or otherwise, the deposition, if com-
 7 petent and proper evidence, may be read in evidence at the tri-
 8 al by either party.

1 77. Every witness, before giving his testimony, shall be sworn
 2 that the evidence he will give relating to the matter in differ-
 3 ence between the plaintiff and defendant, shall be the truth,
 4 the whole truth and nothing but the truth. A solemn affirma-
 5 tion shall, in all cases, have the same effect as an oath; and the
 6 rules of evidence in trials and proceedings before Justices shall-
 7 unless otherwise provided, be the same as in the Circuit Courts.

JUDGMENT.

1 78. When a suit is dismissed or withdrawn, judgment confess-
 2 ed, or the defendant is in custody, or has property under at-
 3 tachment, judgment shall be entered immediately. In other ca-
 4 ses, judgment may be entered at any time within one week after
 5 the trial.

1 79. The defendant may, either before suit is brought, or at
 2 any time afterwards before trial, make an offer in writing to con-
 3 fess judgment in favor of the plaintiff for the sum or property
 4 specified in such offer. If the plaintiff fail to accept the said
 5 offer before trial, or to give notice to the defendant of such ac-

6 ceptance, and do not recover a more favorable judgment, the Jus-
7 tice, on proof of such offer being made, shall adjudge the plain-
8 tiff to pay all costs of the action from the time of the offer. If
9 the offer so made be not accepted, it shall not be given in evi-
10 dence against the defendant.

1 80. When judgment is rendered in a case in which the defend-
2 ant is subject to arrest and imprisonment, it must be so stated
3 in the judgment and entered on the docket.

1 81. In any case not otherwise herein provided, the Justice, on
2 motion of either party, reasonable notice thereof being given to
3 the other, may, on such terms and conditions as he shall see fit
4 to impose, set aside his judgment within seven days after it is
5 entered, and award a new trial, if satisfied that injustice has
6 been done by the judgment to the party by whom the motion is
7 made.

STAY OF EXECUTION.

1 82. The party against whom a judgment is rendered by a Jus-
2 tice may, within ten days thereafter, obtain stay of execution
3 thereon, in any case in which such stay is not prohibited by
4 law, by filing with the Justice an undertaking, signed by one or
5 more sufficient sureties, to the effect that the amount of such
6 such judgment, including interest and costs, shall be paid on the
7 expiration of the stay. The Justice shall note the undertaking
8 on his docket, stating the names of the sureties, and the time of
9 stay allowed. Upon such undertaking being filed within ten
10 days, if execution has been previously issued, it shall be recalled
11 by the Justice.

1 83. If the judgment with interest and costs be not paid when
 2 the stay expires, the undertaking shall have the effect of a judg-
 3 ment confessed, and execution shall issue jointly against the
 4 judgment debtor and the sureties who signed the undertaking.
 5 It shall be the duty of the Justice to issue such execution, with-
 6 in three days after the stay expires, unless otherwise ordered by
 7 the party who is entitled to receive the money to be collected
 8 thereon.

1 84. When the judgment, exclusive of interest and costs, does
 2 not exceed ten dollars, such stay shall be for one month, if over
 3 ten and not over twenty dollars, for two months; if over twenty
 4 and not over forty dollars, for three months; and if over fifty
 5 dollars, for four months.

1 85. No stay of execution shall be allowed in the following
 2 cases:

3 1. On any judgment upon an undertaking filed to obtain such
 5 stay;

6 2. On the judgment rendered on any other undertaking filed
 7 with a Justice or given to a Constable, pursuant to this act;

8 3. On any judgment against a Justice or Constable, for refusing
 9 or neglecting to pay as the law requires, money collected or re-
 10 ceived by such Justice or Constable in his official capacity; or
 11 against a Constable for failing to make return or making a false
 12 return of any process or order.

1 86. If any surety, who signed the undertaking given to obtain
 2 stay of execution, pay the judgment before or after the stay :

3 expires, the judgment against the principal shall remain in force
 4 for his use; and execution thereon may be issued by the Justice
 5 on the application of such surety, after the expiration of the
 6 stay, with an indorsement on such execution showing for whom
 7 it is to be collected.

1 87. If the Justice at any time before the stay expires become
 2 satisfied that the security taken on granting such stay is insuf-
 3 ficient, he shall give notice to the judgment debtor, requiring
 4 additional security; and if it be not given within three days af-
 5 ter service of the notice, he shall make entry of the facts on his
 6 docket, and forthwith issue execution on the judgment. But if
 7 additional security, to the satisfaction of the Justice, be given
 8 within two weeks after the service of the notice, the execution,
 9 if issued in the meantime, shall be recalled, and the stay origi-
 10 nally granted remain in force.

EXECUTION.

1 88. Subject to the provisions of law in relation to cases in
 2 which stay of execution is granted, or the judgment is removed
 3 on appeal or error to the circuit court, executions for the en-
 4 forcement of the judgment of a Justice in a civil action, may
 5 be issued by the Justice by whom such judgment was rendered,
 6 or his successor in office, or the Justice with whom the docket on
 7 which such judgment is entered is lawfully deposited, at any
 8 time within five years from the entry of the judgment, or the
 9 date of the last execution issued thereon.

1 89. If stay of execution be not granted within ten days after
 2 the judgment is rendered, or the cause be not removed on appeal

3 or error to the circuit court within that time, it shall be the du-
 4 ty of the Justice, on the expiration of the said ten days, to issue
 5 execution unless otherwise directed by the person entitled to
 6 receive the money collected thereon; and on the application of
 7 such person, the Justice, in his discretion, may issue execution
 8 before the ten days expire.

1 90. Justices shall receive all money collected on execution or
 2 other process by them issued, and all money tendered to them on
 3 any judgment on their dockets, or any dockets lawfully in their
 4 possession, and pay the same on proper demand to the person
 5 entitled thereto. And for failure so to pay the same, he, and
 6 the sureties on his appeal bond shall be, jointly and severally,
 7 liable for such money to the person entitled thereto, with inter-
 8 est from the time of such demand, and ten per cent. on the prin-
 9 cipal, in addition, as damages.

1 91. The execution must be signed by the Justice who issues it,
 2 and be directed to any Constable of the county, or to the person
 3 deputed to execute it. It must intelligibly refer to the judg-
 4 ment by stating the names of the parties, the name of the Jus-
 5 tice by whom, the county and township in which, and the time
 6 when, it was rendered. It must direct the officer to collect the
 7 amount of the judgment out of the personal property of the
 8 debtor, and pay the money made to the Justice, and return the
 9 execution with a certificate thereon, showing the manner in
 10 which he has executed the same, within sixty days from the time

11 of his receipt thereof. It must state the principal sum for which
13 the judgment was rendered, or the sum by which it may be dis-
14 charged, the time the interest, if any be allowed, is to commence,
15 and the costs to be collected; and if there be credits, they shall
16 be stated thereon. But matter of form shall be disregarded, if
17 the execution be substantially correct, and if there be errors and
18 omissions therein, the same may be corrected or supplied by the
19 Justice at any time according to the truth.

1 92. If an execution be returned unsatisfied, or no return be
2 made thereof, new executions may successively be issued after
3 the return day of the former, to be endorsed respectively "sec-
4 ond execution," "third execution," and so forth, as the case
5 may be.

1 93. When a joint judgment is rendered against a principal
2 debtor and his surety, if such suretyship appear, by any evidence
3 at the trial or paper filed in the cause, or by admission of the
4 parties, to the satisfaction of the Justice, he shall note the fact
5 on his docket; and in such case, a memorandum thereof shall be
6 endorsed on the execution, and the personal property of the prin-
7 cipal debtor subject to execution within the jurisdiction, shall be
8 first sold, unless the surety direct otherwise.

1 94. The constable, or person deputed to execute the same,
2 shall endorse on the execution the day and the hour when it came
3 to his hands; and from that time it shall operate as a lien on the
4 personal property of the judgment debtor liable to be siezed un-
5 der it; which lien however shall be divested in favor of any pro-

cess in the hands of another officer, under which the property shall be first levied upon or attached. When there are several executions in the hands of the same officer against the same judgment debtor, they shall be executed in the order in which they were received; or if received together, all shall share alike, without preference to one over another.

95. The officer, after taking into his custody the personal property levied on by virtue of the execution, shall endorse on the execution the time of levying the same, and immediately give public notice, by advertisement signed by himself, and posted at three public places within the township in which such property was taken, of the time, and place within such township, where they will be exposed to sale. Such notice shall describe the property to be sold, or contain a list thereof, and be posted as aforesaid at least ten days before the time of sale appointed. But when the property is of a perishable nature or expensive to keep, the Justice may order the same to be sold at public auction at such time and place as he may direct.

96. All sales on execution by virtue of this act shall be at public auction in the township in which the property was levied on, between the hours of ten in the forenoon and four in the afternoon of the day appointed for the sale, and at the house or on the premises where the property was taken, or at one of the most public places in the township.

97. Neither the Justice who issued, nor the officer holding the execution, shall purchase, directly or indirectly, any property.

3 ssold on such execution. If either of them do so, he shall be
4 fined not less than five nor more than one hundred dollars.

1 98. The officer shall be allowed by the Justice the reasonable
2 expenses of executing the process and keeping the property, out
3 of the proceeds of sale, or to be taxed and collected as other
4 costs in the suit.

1 99. The officer shall return the execution according to the com-
2 mand thereof, and pay the money made thereon to the Justice,
3 returning the excess if any, to the person against whom the exe-
4 cution was issued. When any property is sold by him, he shall
5 annex to his return a true inventory of each article sold, and
6 the price at which it was sold. If the execution be not satisfied
7 and any property remains in his hands unsold for want of bid-
8 ders, he shall annex a true inventory of every article thereof to
9 his return. If he fail herein, he shall be fined not less than
10 five nor more than fifty dollars, and with the sureties on his
11 official bond be jointly and severally liable to an action on the
12 said bond in the name of the State for the benefit of the person
13 injured thereby.

1 100. When an execution is returned unsatisfied in whole or in
2 part, and there is property in the hands of the officer remaining
3 unsold for want of bidders, or other cause, it shall be the duty
4 of the Justice, unless otherwise directed by the person entitled
5 to receive the money remaining uncollected, forthwith to issue
6 his order commanding any constable of the county to whom such
7 order is directed to sell the said property and pay over the pro-

8 ceeds thereof to the said justice; which sale shall be subject to
9 the same regulations as sales on execution.

1 101. Any constable or officer having levied on property of
2 which he permits the party against whom the execution issued,
3 or any other person, to retain or have possession, may take such
4 security, for his own indemnity, as he shall require, that such
5 property shall be delivered at the time and place appointed for
6 the sale thereof.

1 102. When a constable or person deputed to execute the same
2 by virtue of an execution or order of attachment has levied on
3 or attached property claimed by any person other than the party
4 against whom the execution or order issued, if such claimant or
5 another for him, with one or more sufficient surities, sign and file
6 with the Justice by whom the execution or order was issued, an
7 undertaking to the effect, that such claimant, in any suit that
8 may be brought on such undertaking within three months after
9 the date thereof, will prove that he was the owner of the said
10 property at the time of such seizure, or if he fail to do so, will
11 pay the value thereof, the Justice shall issue his order, directed
12 to the officer having such execution or attachment commanding
13 him to deliver up the property to the said claimant; and such
14 officer shall obey the same. The money, if any, which may be re-
15 covered on such undertaking shall be applied as the proceeds of
16 such property would have been, if it had not been released as
17 aforesaid.

1 103. Or, the claimant in such case, without giving the under-

2 taking, mentioned in the preceding section may apply to any
3 Justice of the township in which the levy or attachment was made,
4 for an order to a constable directing him to notify both the cred-
5 itor and debtor to appear and show cause why the property
6 should not be discharged from the levy or attachment. Such
7 order shall be returnable in not less than five days, and shall be
8 served and returned by the Constable according to the command
9 thereof; but whether it be returned served or not, the Justice
10 on the return day thereof, or at such reasonable time thereafter
11 as he may appoint for the purpose, shall hear the parties or such
12 of them as attend, and dismiss the claim or order the officer to
13 restore the property to the claimant, as the right shall appear;
14 and the party prevailing shall recover his costs. The Justice
15 may also make any order necessary to prevent the property be-
16 ing sold before the right thereto is determined as aforesaid.

1 104. Any party considering himself aggrieved by the decision
2 of the Justice under the preceding section, may appeal there-
3 from to the Circuit Court in like manner as from a judgment.

ARREST AND COMMITMENT AFTER JUDGMENT.

1 105. When the judgment in a civil action before a Justice is
2 rendered against a defendant who is in custody under an order
3 of arrest issued as hereinbefore provided, the Justice, if, upon
4 the whole evidence produced in the cause, including the affida-
5 vit on which the said order of arrest was founded, he believe such
6 defendant to have been guilty of the fraud alleged in such affidavit,
7 may make and sign an order directed to the officer having the

8 defendant in custody, commanding such officer to deliver his
9 prisoner to the Sheriff of the county to be committed to jail and
10 there detained until lawfully discharged.

1 106. If at any time after judgment against the defendant,
2 there is filed in the office of the Justice who is authorized to is-
3 sue execution on such judgment, the affidavit or affidavits of one
4 or more credible persons made before any person authorized to
5 administer oaths, stating the amount remaining unpaid on such
6 judgment, and charging the defendant with fraud in any of the
7 particulars mentioned in the——section of this act, and alleg-
8 ing such facts and circumstances as justify belief in the alleged
9 fraud, the Justice shall in such case issue an order for the arrest
10 and committment of the defendant, on motion of the plaintiff.

1 107. The said order may be issued to accompany the execu-
2 tion, or while an execution is outstanding, if sufficient property
3 has not been levied on to satisfy the same. It shall be dated
4 the day it is issued, be signed by the justice, delivered to the
5 officer holding the execution, if any be outstanding, and be re-
6 turnable, whenever executed; or, if not executed, then within
7 sixty days after its date. It shall state the names of the parties,
8 the judgment and costs, with the credits, if any, thereon; and
9 command the officer to arrest the defendant, and unless he pay
10 the amount due, or surrender property sufficient to satisfy the
11 same, to deliver him to the sheriff of the county to be commit-
12 ted to jail and there detained until lawfully discharged.

1 108. But the order referred to in the last two sections shall

2 not be issued until the plaintiff or some one for him, with one or
3 more sufficient sureties, shall sign and file with the Justice an
4 undertaking to pay the defendant all damages he may sustain
5 by reason of the arrest and commitment, should it thereafter ap-
6 pear that the order was wrongfully obtained.

1 109. If the defendant recover judgment against the plaintiff,
2 he shall have the like remedy against the plaintiff by arrest and
3 commitment.

1 110. The officer, pursuant to the order mentioned in the 105th
2 and 107th sections shall deliver the prisoner to the Sheriff or
3 Jailor of the county with a certified copy of the said order, which
4 copy shall be sufficient authority to the said Sheriff or Jailor to
5 receive and keep the prisoner in jail until discharged according
6 to law.

1 111. The prisoner committed as aforesaid, may be kept in
2 prison for ten days, and one day in addition for every two dol-
3 lars over twenty, due on the said judgment, unless he sooner pay
4 the same.

1 112. The officer may at his peril omit to arrest any person un-
2 der such order, or after arrest permit him to go at large, subject
3 only to his liability for omitting to arrest or for an escape, if he
4 fail to have the money forthcoming on the return of the order.

1 113. The Sheriff or Jailor receiving any person as aforeaaaid, or
2 keeping him in jail, may at any time, on notice to the party at
3 whose suit such person is held, discharge the prisoner, unless
4 their fees are paid and money furnished to pay the sustenance of

5 such prisoner; or they may detain him, holding the said party
6 liable for such fees and sustenance.

1 114. The person committed as aforesaid shall be discharged at
2 any time, upon paying the sum due on the judgment, including
3 all costs, or surrendering property sufficient to satisfy the same,
4 or signing with one or more sufficient sureties, and causing to be
5 filed with the Justice, an undertaking that he will pay the same
6 within sixty days from the date thereof.

APPEALS.

1 115. In all cases an appeal shall lie, under the regulations
2 herein prescribed, from the judgment of a Justice to the Circuit
3 Court of the county, when the amount exceeds ten dollars, ex-
4 clusive of interest and costs, or the case involves the freedom of
5 a person, the constitutionality or validity of a law, or the right
6 of a corporation or county to levy tolls or taxes.

1 116. The party desiring to appeal shall, within ten days after
2 the judgment is rendered, sign and file with the Justice an un-
3 dertaking, with one or more sufficient sureties, to the effect that
4 he will prosecute his appeal without avoidable delay, and if
5 judgment be rendered against him on such appeal, will satisfy
6 the judgment.

1 117. When there are two or more plaintiffs or defendants, any
2 one or more of the plaintiffs or of the defendants may appeal,
3 without joining therein the others on the same side.

1 118. On the filing of such undertaking, all further proceed-
2 ings in the action, before the Justice, shall cease. If any execu-

tion, order of arrest or other process or order be outstanding, it shall be recalled by the Justice, and if the applicant be in custody, he shall be discharged.

119. The Justice shall immediately make out and certify a complete transcript from his docket of all the proceedings before him in the action, and deliver or transmit the same, together with the said undertaking, the statements and bills of particulars, the depositions and all original papers in the cause, to the clerk of the Circuit Court of the county, on or before the second day of the term commencing next after such appeal. If the Justice omit or refuse so to do, he shall be fined not less than five nor more than one hundred dollars; and moreover shall, with the sureties on his official bond, be liable to the party aggrieved for any loss or damage he may sustain thereby.

120. The clerk of the Circuit Court on receiving the said transcript and papers, shall file the same and docket the appeal. The appeal shall be tried in a summary way, without pleadings in writing; but if it be demanded by either party, and the sum in controversy, or damages claimed, exceed twenty dollars, a jury of six shall be selected and impannelled to try the questions of fact, in like manner as other juries in the said court. All lawful evidence produced in relation to the matters in difference between the parties, shall be heard whether such evidence was produced before the Justice or not, and the cause shall be determined, without reference to the judgment of the Justice, on the principles of law and equity.

1 121. If the applicant do not prosecute his appeal, without
 2 avoidable delay, the judgment of the Justice shall be affirmed.
 3 If the Court, in any case, be of opinion that the undertaking filed
 4 by the appellant is for any cause insufficient, or the security
 5 thereto doubtful, it shall order a new undertaking in proper
 6 form and with sufficient security to be given within a time spe-
 7 cified in such order, and if it be not given, the judgment of the
 8 Justice shall be affirmed.

1 122 If the judgment of the Justice be affirmed as aforesaid
 2 or if upon the trial in the Court, the appellant do not increase
 3 the original judgment, if it was in his favor, or reduce it if it was
 4 against him, more than ten dollars, exclusive of interest and
 5 costs, the appellant shall pay the costs of the appeal.

1 123. When the judgment appealed from is against the appel-
 2 lant for any sum of money, and such judgment is affirmed, or an
 3 equal or greater sum is found to be due by the appellant, judg-
 4 ment shall be rendered by the Circuit court against the appellant
 5 and his sureties for the sum due, including interest and costs up
 6 to time the appeal was taken, with damages on the aggregate at
 7 the rate of ten per cent. per annum from that time until payment,
 8 and the costs of the appeal.

1 124. The appellant shall recover the costs of the appeal when
 2 the original judgment is reversed, or when a judgment of the Jus-
 3 tice in his favor is increased, or a judgment against him reduced,
 4 in the Circuit court, more than ten dollars, exclusive of interest
 5 and costs.

1 125. In all cases of appeal from a Justice to a Circuit court,
2 the court, (subject to the foregoing rules, when they are appli-
3 cable,) may make any order during the progress of the cause
4 which the principles of law or equity may require; and shall
5 render judgment as the right shall appear, and proceed to enforce
6 the same as other judgments of the court are enforced, without
7 remanding the cause again to the Justice. The judgment in
8 the Circuit court, if in favor of the appellee, shall be against the
9 appellant and his sureties.

DOCKET.

1 126. Every Justice shall keep a book denominated a docket,
2 to be furnished by the Board of Supervisors at the expense of the
3 county, and to be used exclusively for entering therein his
4 judicial proceedings.

1 127. He shall enter in the said docket the title of every action
2 commenced before him, setting forth at full length the names of
3 the parties, if known, and showing which are plaintiffs and which
4 defendants, and stating the time the action was commenced, and
5 the amount of money or damages, or the specific property, which
6 the plaintiff demands.

1 128. Underneath the title of the action he shall enter, at the
2 times they occur, the following particulars, commencing the
3 transactions or proceedings of every day with their proper date:
4 1. The date of the summons, the time it is returned and the
5 name of the person to whom it is delivered to be served. The
6 same particulars must be stated in relation to any order of

7 arrest or attachment, which may be issued in the action ; and if
8 an order of arrest or attachment be issued, it shall be stated on
9 whose affidavit it was founded ;

10 2. The return made to the process should be briefly noted ;

11 3. The names of the agent, attorney or guardian, if any, ap-
12 pointed on behalf of any party, should be stated ; also—

13 4. The filing by either party of his statement or bill of partic-
14 ulars, with a brief notice of the contents thereof ;

15 5. Every continued, showing at whose instance it is made,
16 and to what time. If made to a different place, it shall be stated ;

17 6. The undertakings filed in the action by either party should
18 be noticed, with the names of such party and his sureties ;

19 7. The docket should show which of the parties is present at
20 the trial ;

21 8. When a jury is demanded, by whom such demand is made ;

22 9. The time appointed for the trial by jury ;

23 10. The names of the jurors failing or refusing to appear or
24 serve, and the fines imposed on them, if any ;

25 11. The names of the jury sworn ;

26 12. The names of each witness sworn and at whose request ;
27 the proceedings against and fines imposed on delinquent wit-
28 nesses ;

29 13. The proceedings against any person for an alleged con-
30 tempt ;

31 14. The verdict of the jury shall be set forth at full length. If
32 they cannot agree and are discharged, the fact shall be stated ;

33 15. The judgment of the Justice shall be stated, with the items
34 of the costs.

35 16. The execution and orders to sell issued, to whom delivered
36 to be executed, the renewals thereof, and the returns made on
37 any such process, should be shown by the entries on the docket,
38 also—

39 17. Every sum of money received by the Justice in the cause,
40 showing when and by whom paid ;

41 18. The giving of a transcript from the docket, and to whom
42 given ;

43 19. If an appeal be taken, by which party, the undertaking
44 filed by him, by whom signed and when filed ;

45 20. The undertaking filed for stay of execution, by whom sign-
46 ed and when filed, and the stay granted ;

47 21. The satisfaction of the judgment, and how and when sat-
48 isfied ;

49 22. Any other proceedings in the action which the Justice is
50 by law directed to enter on his docket, or may think it necessary
51 or proper to enter.

1 129. So far as the entries in the docket are concerned, the
2 form shall be regarded as immaterial, if the truth be substantial-
3 ly stated so as to be intelligible to a person of common under-
4 standing and information.

1 130. Every Justice shall keep an alphabetical index of all judg-
2 ments entered in his docket. In such index shall be inserted
3 the names of the parties to each judgment, with the page where
4 the judgment is entered.

1 131. He shall number the cases progressively on his docket, and
2 shall correspondingly number the papers belonging to each case.
3 He shall keep all the papers of each case together, in packages
4 of convenient size, and in the order the cases are numbered on
5 his docket.

1 132. Whenever it shall be necessary to prove a judgment or
2 other process had before a Justice, or any process issued by
3 him, or the return thereof, or any order made by him in a suit,
4 the docket in which it is entered, or a transcript thereof certi-
5 fied by him, or his successor in office, or the person lawfully hav-
6 ing the custody of such docket, shall be received as evidence of
7 the same, but shall not be conclusive if errors or omissions be
8 shown.

1 133. Every Justice, upon the expiration of his term of office,
2 shall deposit with his suceessor his official docket, as well as
3 those of his predecessors which may be in his custody, together
4 with all papers relating to his judicial proceedings in their prop-
5 er files and order, and all statutes received by him in his official
6 capacity, to be kept by such successor as public records and
7 property.

1 134. If the office of a Justice become vacant by death, removal
2 from the township or otherwise, the dockets, papers, laws and
3 statutes in the possession of such Justice by virtue of his office,
4 shall be delivered to the other Justice, if there be one, of the
5 township; otherwise, to the clerk of the township; to remain in
6 his custody until such vacancy is filled, and then to be delivered
7 to the person elected and qualified to fill such vacancy.

1 135. Any Justice absenting himself from his township for a
2 longer period than sixty days, shall deposit the dockets, papers
3 and books which came to his hands by virtue of his office, with
4 the other Justice, if there be one of the same township; other-
5 wise, with the clerk of the township. The Board of Supervisors
6 of the county may, however, at their option, consider the Justice
7 so absenting himself as having thereby vacated his office, and
8 may order an election to fill the vacancy.

1 136. Any person receiving as aforesaid the dockets, papers,
2 laws and statutes which were in the possession of any Justice by
3 virtue of his office, shall, if requested, give a receipt therefor to
4 the person delivering the same.

1 137. A Justice with whom the docket of another is lawfully
2 deposited, during vacancy or absence, or as the successor of such
3 other Justice, is hereby authorized, while such docket remains
4 lawfully in his custody, to issue execution or other process
5 thereon, give and certify transcripts thereof, and do all such oth-
6 er acts in relation thereto, as he may do in relation to his own
7 docket. But executions and process so issued, shall be returned
8 to the Justice who may have the legal custody of the said dock-
9 et on the return day thereof.

1 138. When two Justices are elected in any township in place
2 of two others, the Board of Supervisors of the county shall by
3 resolution declare as to each of those going out of office which of
4 the two elected shall be deemed his successor.

CONTEMPTS.

1 139. A Justice may punish as for a contempt, persons guilty
2 of the following acts, and no others:

3 1. Disorderly, contemptuous or insolent behaviour towards the
4 Justice, while engaged in the trial of a cause, or in any judicial
5 proceeding, if such behavior tend to interrupt the proceed-
6 ings or impair the respect due to his authority.

7 2. Any breach of the peace, boisterous conduct, or wilful dis-
8 turbance tending to interrupt the judicial proceedings of a
9 Justice;

10 3. Wilful resistance in presence of the Justice to the execu-
11 tion of any lawful order or process made or issued by him.

1 140. An order of arrest may be issued by a Justice, on which
2 the person so guilty may be taken and brought before him, or
3 such person may be taken in custody by any officer present, up-
4 on the oral order of the Justice, and held to answer for the con-
5 tempt. An opportunity must be given him to be heard in de-
6 fence or explanation of his conduct; and the Justice may there-
7 upon discharge him, or adjudge him guilty of the contempt, and
8 punish him by fine or imprisonment, or both. The fine shall
9 not exceed ten dollars, or the imprisonment three days.

1 141. The conviction, specifying the particular circumstances of
3 the offence and the judgment thereon, must be entered by the
4 Justice in his docket. A warrant of commitment for the term of
5 imprisonment adjudged may then be issued by the Justice, com-
6 manding any constable to take the offender to the jail of the

7 county, and the jailor to imprison him therein for the said term.
 8 The judgment for the fine may be enforced as other judgments of
 9 Justices, and may include in addition to the fine as aforesaid, all
 10 costs in the case, including the costs of arresting and keeping in
 11 prison the offender.

1 142. Appeals from the judgments of Justices may be granted,
 2 after the expiration of the ten days, by the circuit court in term
 3 time, or the Judge thereof in vacation, when the party seeking
 4 the appeal shall deliver to the court or Judge a proper under-
 5 taking, with sufficient security thereto as hereinbefore prescri-
 6 bed, and shall show by his own oath or otherwise, that he was
 7 prevented from taking such appeal, within the ten days, by cir-
 8 cumstances beyond his control.

1 143. In such case, if the appeal be granted, the court or Judge
 2 shall make and certify to the Justice an order directing him to
 3 cease all further proceedings in the cause, and recall all execu-
 4 tions and orders that may be outstanding for the enforcement of
 5 the judgment, and transmit, without avoidable delay, to the
 6 clerk of the said court, a complete transcript from his docket of
 7 the proceedings in the suit, together with all the original papers
 8 relating thereto. Upon the receipt thereof by the clerk, the
 9 cause shall be proceeded with in the circuit court as in other ca-
 10 ses of appeals from the judgment of the Justices.

CONSTABLES.

1 144. The Constable shall attend all trials in which he may
 2 have served process, and preserve order and enforce the lawful
 3 commands of the Justice during the same.

1 145. It shall be the duty of the Constable, on receipt of any
2 summons, order, execution or other process, except a subpoena,
3 to note thereon the time of receiving the same; to serve and ex-
4 ecute the same, subpoenas included, according to the command
5 thereof and the provisions of law; to make true return thereof
6 to the proper Justice on the return day, stating in such return
7 the time and manner of executing the same; and to pay all mon-
8 ey received by him in his official capacity, to the Justice before
9 whom the suit or proceeding is pending.

1 146. In serving and executing the orders and process issued
2 by a Justice, the Constable may exercise the same authority over
3 persons and property as it would be lawful for a Sheriff to exer-
4 cise under like orders or process from the circuit court.

1 147. Every Constable who shall neglect or refuse to serve or
2 execute any lawful process or order in his hands, when in his
3 power to do so,, or shall make a false return thereon, or shall fail
4 to return the same on the return day thereof, or shall fail to per-
5 form any duty incumbent on him by law, shall, with his sure-
6 ties, be liable on his bond to the person sustaining injury there-
7 by, to the extent of such injury, with ten per cent. damages there-
8 on.

1 148. Every constable on going out of office, shall deliver to
2 his successor all process and orders in his hands, with his pro-
3 ceedings thereon endorsed, and also all property levied on, or
4 attached, and remaining unsold, and take such successor's receipt
5 therefor; including in different receipts the process and orders

6 from different Justices, and shall return such receipts respective-
 7 ly to the proper Justices, who shall enter the same on their dock-
 8 ets and carefully preserve the originals. Upon the death of a
 9 constable, the same duty shall devolve on his personal repre-
 10 sentative.

MISCELLANEOUS.

1 149. Judgment in favor of any deceased person, may be re-
 2 vived in favor of his personal representatives, by an order of the
 3 Justice to that effect, entered on his docket, or any docket law-
 4 fully in his possession, at least three days notice being first given
 5 to the adverse party to show cause, if any he have, why such
 6 order should not be entered.

1 150. If the judgment be against a deceased person, and the
 2 plaintiff desire to obtain judgment thereon against the personal
 3 representatives of the deceased, he shall proceed by summons or
 4 otherwise, as for the commencement of a new suit.

1 151. The remedy for the recovery of rent shall remain as
 2 heretofore.

1 152. No Justice, or constable of the same township, shall pur-
 2 chase any judgment, or any interest in, a judgment, on the dock-
 3 et of such Justice or any docket in his possession. Every person
 4 violating this provision shall, for every such offence, forfeit not
 5 less than ten nor more than one hundred dollars.

1 153. The common law and statute laws now in force relating
 2 to suits and proceedings before Justices, and to the powers, du-
 3 ties and compensation of Justices and constables, shall continue
 4 in force so far as they are not inconsistent with this act.

HOUSE BILL No. 152.

**A BILL TO PROVIDE FOR THE RELIEF OF
THE FAMILIES OF SOLDIERS.**

Be it enacted by the Legislature of West Virginia:

1 The board of supervisors of each county are
2 hereby authorized, from time to time during
3 the war, at any stated or special meeting, to
4 levy so many cents on every hundred dollars
5 value of the taxable property of their county,
6 as they shall deem necessary, to provide ade-
7 quate funds for the relief of the families of liv-
8 ing and deceased soldiers of their county. But
9 if any special meeting be called for such pur-
10 pose, at least seven days notice of the object of
11 such meeting must be given to the supervisors
12 constituting the board.

HOUSE BILL No. 153.

A BILL PROVIDING FOR THE APPRAISEMENT OF CERTAIN PROPERTY.

Be it enacted by the Legislature of West Virginia :

1 1. Before any sale of property stayed by the pro-
2 visions of the act passed January 30, 1863, by the
3 Legislature of Virginia, entitled "An act staying the
4 collection of certain debts," shall be made, it shall be
5 the duty of the officer or person authorized to make
6 such sale, to appoint three discreet and reputable free-
7 holders to affix a valuation on such property, in manner
8 and form following, that is to say : the said appraisers
9 shall take and subscribe an oath before some person le-
10 gally authorized to administer the same, to the effect
11 that they will truly, justly, and impartially examine,
12 estimate, and appraise the fair cash value at that time
13 of all such property as is exhibited to them for that
14 purpose and liable to sale; the said appraisers shall
15 thereupon proceed to assess the value of each piece or
16 parcel of said property as aforesaid, and make return
17 of said valuation and appraisement, one copy to the of-
18 ficer, another copy to the recorder's office, to which
19 they shall append their certificate that they have, after

20 being duly sworn, fairly and impartially, to the best of
21 their judgment, valued and appraised the property
22 therein set forth; and shall each sign the same with
23 his name and at the date and place.

1 2. The officer or person legally authorized to sell as
2 set forth in the preceding section, may thereupon hav-
3 ing given such notice of time and place as the law or
4 the deed of trust or mortgage may prescribe, proceed to
5 expose to sale to the highest bidder, the property so
6 valued and appraised; and if bidders are found to
7 purchase such property at —— per centum of the val-
8 uation and appraisement, then the sale shall be valid
9 and the property shall pass to the bidder or purchaser;
10 but if the bids shall not be —— per centum of the
11 valuation and appraisement, then the sale shall not be
12 valid, and the officer or person authorized to sell shall
13 withdraw said property from sale for the time, but may
14 from time to time expose the same until purchasers may
15 be found willing to bid the —— per centum of the
16 valuation and appraisement.

1 3. No person who is or may have been a rebel against
2 the lawful authority of the United States, or of this
4 State, shall be entitled to the provisions of this act.

HOUSE BILL No. 154.

**A BILL TO REQUIRE BOND FROM THE
COUNTY TREASURER.**

Be it enacted by the Legislature of West Virginia:

1 1. Every county treasurer, before entering
2 on the discharge of the duties of his office, shall
3 give bond with security to be approved by the
4 board of supervisors of the county in such pen-
5 alty, not less than two thousand nor more than
6 ten thousand dollars, as the said board shall
7 from time to time appoint, conditioned for the
8 faithful discharge of the duties of his office,
9 and for accounting and paying over as required
10 by law, all money which may come to his hands
11 by virtue thereof; which bond shall be filed in
12 the office of the clerk of the said board.

1 2. If any county treasurer fail to give such
2 bond within thirty days after his election, his
3 office shall be thereby vacated, unless further

4 time for giving bond be allowed by resolution
5 of the board of supervisors.

1 3. The act relating to official bonds passed
2 June 29, 1863, so far as it is not inconsistent
3 with this act, shall be held applicable to the
4 bonds of county treasurer.

HOUSE BILL No. 155.

A BILL FOR THE RELIEF OF THE PERSONAL REPRESENTATIVES OF JOHN SIMPSON, DECEASED.

1 Whereas, Charles Marshall, late of Ohio county, West
2 Virginia, has been transported into the lines of the ar-
3 mies of the so-called Southern Confederacy, and where-
4 as, he is one of the two subscribing witnesses to the
5 last will and testament of John Simpson, deceased, and
6 cannot, by reason of his transportation, as aforesaid, be
7 produced in court to prove said will; therefore,

Be it enacted by the Legislature of West Virginia:

8 The circuit court for Ohio county aforesaid, may hear
9 testimony to prove the signature of said Charles Mar-
10 shall, to said will, by proof of the handwriting of said
11 Charles Marshall, and when said court shall be satisfied
12 by the evidence of two credible witnesses, that the sig-
13 nature of said Charles, Marshall to said will, as a wit-
14 ness thereto, is the genuine signature of him, said
15 Charles Marshall, the said court shall admit said will to
16 probate.

HOUSE BILL No. 156.

A BILL TO REQUIRE JUSTICES TO DISCHARGE CERTAIN DUTIES HERETOFORE PERFORMED BY CORONERS.

Be it enacted by the Legislature of West Virginia :

1 1. Every justice upon being notified that the dead body of
2 a person, whose death is supposed to have been caused by vio-
3 lence or other unlawful act, and not by casualty, is within his
4 township, shall forthwith issue his warrant directed to a con-
5 stable thereof, who shall proceed to execute and make return
6 of the same, commanding such constable to summon twelve
7 suitable residents of the said township, to be in attendance on
8 such justice as jurors, at a place and on a day and hour, to be
9 designated in the warrant, to make inquisition upon the view of
10 the body of the person named therein, or of a person unknown
11 as the case may be, how such person came to his death; and
12 may by endorsement on such warrant, or by subpoena, com-
13 mand the officer to whom the same is delivered to summon such
14 witnesses as the justice may designate, or as the constable may
15 be informed or have reason to believe have knowledge of the
16 circumstances attending such death, to be in attendance upon
17 the said inquest, at such time as may be designated in such en-
18 dorsement or subpoena. In case of the inability or failure of
19 such justice or constable to act, any other justice or constable

20 of the county may perform their respective duties imposed by
21 this and the succeeding section, and be entitled to the same
22 fees, and subject to the same pealties.

1 2. The subsequent proceedings in any such case as is men-
2 tioned in the preceding section, shall be in accordance with,
3 and governed by the provisions of the third and following sec-
4 tions of the two hundred and second chapter of the Code of
5 Virginia, second edition, except the last clause of the eleventh
6 section, which is hereby repealed; and except that the word
7 "coroner," wherever it occurs, shall be construed to mean the
8 justice who issued the warrant as aforesaid; the words "unlaw-
9 ful violence," in the sixth section, to mean violence or other
10 unlawful act; the words "county or corporation court," in the
11 ninth section, to mean the circuit court of the county in which
12 the dead body was found; and the words "the court of the
13 coroner's county or corporation," and the word "treasury," in
14 the ninth section, to mean, respectively, the board of supervi-
15 sors and the treasury of such county. For their services un-
16 der this and the preceding section the justice shall be entitled
17 to a fee of five dollars, and the constable to a fee of three dol-
18 lars, to be audited and paid from the treasury of such county,
19 as other claims are audited and paid.

HOUSE BILL No. 157.

A BILL TO PRESCRIBE THE POWERS, DUTIES AND COMPENSATION OF JUSTICES AND CONSTABLES, IN CASES OF MISDEMEANOR AND BREACHES OF THE PEACE.

Be it enacted by the Legislature of West Virginia:

1 1. Every Justice and Constable shall be a conservator of the
2 peace within his county; and as such, every Justice shall exer-
3 cise all the powers, and discharge all the duties, which Justices
4 are authorized to exercise, and required to discharge, by chap-
5 ter two hundred and one of the Code of Virginia, second edition.
6 Every Constable, as such conservator, if any person shall, with-
7 in his county, and in his presence, make an affray, or threaten
8 to beat, wound or kill another, or to commit violence against his
9 person or property; or contend with angry words to the disturb-
10 ance of the peace; or improperly or indecently expose his per-
11 son; or appear in a state of gross intoxication in a public place,
12 may, without warrant or other process, or further proof, arrest
13 such offending person and carry him before some Justice of the
14 township where such offence is committed, who, upon hearing
15 the testimony of such Constable and other witnesses, if any are
16 then and there produced, if in his opinion the offence charged is
17 proved, shall require the offender to give a bond or recognizance
18 with security, to keep the peace, and be of good behavior for a
19 term not exceeding one year.

1 2. If any offence enumerated in the preceding section is com-
2 mitted in the presence of a Justice within his county, or, the of-
3 fender being brought before him, the commission thereof is prov-

ed to his satisfaction, he may, besides requiring a bond or recognizance, with security, as provided in the preceding section, impose upon the offender a fine not exceeding five dollars. If such bond or recognizance is not then and there given, or such fine is not then and there paid, the said Justice shall commit the offender to the jail of his county, there to remain until such bond or recognizance is given, and such fine is paid; but no imprisonment under this section shall continue more than ten days, at the end of which the sheriff or jailor shall discharge the prisoner, unless he has been commanded by sufficient authority to detain him for some other cause.

3. Justices shall have exclusive original jurisdiction of misdemeanors and breaches of the peace occurring within their respective townships, which are punishable by a fine not exceeding ten dollars or by imprisonment for not more than ten days; but in any case in which the law allows a fine of over ten dollars or imprisonment for more than ten days to be imposed, the Justice shall not have jurisdiction.

4. Upon the complaint on oath of any credible person, that another has committed within his county any misdemeanor or breach of the peace cognizable by a Justice, the Justice to whom such complaint is made, shall forthwith issue his warrant, directed to a Constable of his township, or of that in which the alleged offence appears to have been committed, commanding such Constable to arrest the offender and carry him before a Justice of the latter township, to whom such warrant shall be made re-

9 turnable; and may by endorsement on such warrant, or by sub-
 10 poena, further command the Constable to whom such warrant is
 11 directed, to summon such witnesses as he may designate, to ap-
 12 pear before the Justice to whom the warrant is returnable on the
 13 same or a subsequent day, if the offender shall be then arrested,
 14 and if not, then upon such arrest. On the appearance of the ac-
 15 cused, the Justice may proceed to try the case, but may grant
 16 continuances from time to time for good cause shown by the ac-
 17 cused, or, if the Justice is of opinion that the circumstances of the
 18 case require a continuance thereof, or that the ends of justice will
 19 be thereby promoted; but in no case shall any continuance be for
 20 more than twenty days. The accused shall be entitled to sub-
 21 poenas for such witnesses as he may desire to have examined on his
 22 part, which shall be issued by the Justice, at his request and serv-
 23 ed by the Constable to whom the same are directed.

1 5. If the alleged offence is punishable by a fine exceeding five
 2 dollars, or by imprisonment, the accused, at any time before the
 3 trial is begun, may demand a trial by jury, which shall be granted
 4 him as of right. The Justice shall thereupon cause a jury of six
 5 persons to be selected and impannelled for the trial of the ac-
 6 cused in the same manner and subject to the same regulations
 7 as are prescribed by law for selecting and impaneling juries in
 8 civil suits before Justices, and any person summoned or called
 9 as a juror who shall fail to attend or refuse to serve, shall be lia-
 15 ble to the same penalty as in a civil suit before the Justice.

1 6. When a jury is sworn in trials before a Justice for misde-

2 meanors and breaches of the peace, they shall say by their ver-
3 dict whether the accused is guilty or not guilty of the offence
4 charged, according to the evidence produced before them, and
5 the law of the case. If they find him guilty, they shall assess
6 the fine to be paid, or the duration of the imprisonment, within
7 the limits fixed by law. Where by law the punishment may be
8 either fine or imprisonment, or both, it shall be determined by
9 their verdict, and the Justice shall render judgment in accor-
19 dance therewith.

1 7. When any such case is tried by a Justice without a jury.
2 he shall himself hear the witnesses, and decide according to
3 their testimony, and such facts connected with the case as may
4 be within his own knowledge. If he finds the accused guilty he
5 shall fix the amount of the fine and the term of imprisonment,
6 and render judgment accordingly.

1 8. Whether the trial is by jury or not, if the judgment is
2 against the accused it shall also be for the whole costs of the pro-
3 ceeding; and if it inflicts imprisonment, the Justice shall by war-
4 rant, commit the accused to the jail of his county there to re-
5 main for the term fixed by the jury. If the judgment also im-
6 poses a fine, or if a fine is the only punishment, and the same and
7 costs of the proceeding are not immediately paid, or bond or re-
8 cognizance with security approved by the Justice given for the
9 payment of both, at or before the expiration of thirty days from
10 the day on which the judgment was rendered the warrant here-
11 by above directed, if imprisonment is required by the judgment

12 or a warrant issued by the Justice for the purpose, shall require
13 the accused to be detained in jail until the penalty and costs
14 awarded by the judgment, and the jail fees, are paid; but no
15 imprisonment for the non payment of a penalty and the costs
16 shall continue longer than ten days counting where imprison-
17 ment is part of the judgment, from the expiration thereof.

1 9. In every case of a conviction under the provisions of this
2 act, an execution may issue for the costs awarded by the judg-
3 ment, to be levied of the goods and chattles of the offender. In
4 every such case the Justice and constable may issue their fee bills
6 against the defendant for such costs in the case as were incurred
7 at the request of the defendant and are not included in the exe-
8 cution, and such fee bills shall have the same force as if they
9 had been issued for fees accrued in civil cases, and be subject to
10 the same regulations.

1 10. All fines collected under proceedings authorized by this
2 act, shall be immediately paid by the Justice or Constable re-
3 ceiving the same to the Treasurer of the county, and duplicate
4 receipts of the said Treasurer be taken therefor, one of which
5 shall be delivered to the Clerk of the Board of Supervisors, and
6 the other endorsed by the said clerk, and retained by the per-
7 son paying the money, as required by the tenth section of the
8 act passed November 2, 1863, entitled "An Act defining in part
9 the powers and duties and regulating the proceedings of the
10 Boards of Supervisors in the several counties of the State," The
11 Treasurer shall enter every sum so paid to the credit of an ac-

12 count to be kept in his books under the heading "General School
13 Fund." All claims by Justices and Constables of the county,
14 or others, for fees due them in proceedings authorized by this
15 act, where such fees have not been collected on executions or
16 fee bills as aforesaid, shall be submitted by them to the Board
17 of Supervisors, at or before their stated meetings on the
18 twentieth of June and December annually; and if the Board be-
19 lieve that such claims are justly due and could not have been
20 collected by the exercise of proper diligence, they shall order the
21 same to be paid out of the said "General School Fund," if suffi-
22 cient, and charged to the said account. A correct statement of
23 the said account, verified by the affidavit of the Treasurer of the
24 county, shall be forwarded by him to the Auditor on the first
25 days of January and July, annually, or within seven days there-
26 after, and the said Treasurer shall then pay into the Treasury of
27 the State the net proceeds of the said fines as exhibited thereby,
28 to be applied as provided by the second section of the tenth ar-
29 ticle of the constitution. If the Treasurer of any county fail to
30 discharge any duty required of him by this section, he shall be
31 fined not less than ten nor more than one hundred dollars for
32 every such offence.

1 11. Every person against whom judgment is rendered by a Jus-
2 tice in a case of misdemeanor or breach of the peace, by which
3 imprisonment is awarded, shall be allowed by such Justice an
4 appeal, as of right to the Circuit Court of the county, upon giv-
5 ing bond or recognizance, with security approved by the Jus-

6 tice, to appear before such Court on the first day of the next
7 term thereof, and to satisfy such judgment as the said Court may
8 award against him. If such person previous to the trial has been
9 in custody for want of bail which he is still unable to give, an
10 appeal as aforesaid shall be allowed him without such bond or
11 recognizance, but he shall continue in custody until the same is
12 given.

1 12. When an appeal is allowed under the preceding section, the
2 Justice shall prepare and certify a transcript of his docket, and
3 transmit the same together with all the papers in the case, to the
4 clerk of the Circuit court of his county, who shall docket the
5 case in his court, and the proceedings thereafter shall be the
6 same, as near as may be, as if the accused had been presented or
7 indicted by a grand jury; but the said court shall proceed to try
8 the case upon its merits, without indictment or presentment,
9 and shall admit all legal evidence offered on either side whether
10 the same was, or was not, offered before the Justice, and give
11 such judgment as the law and the evidence may require. If the
12 accused is found guilty the judgment shall include the costs
13 properly awarded against him by the Justice, as well as those
14 incurred in the said court. All subsequent proceedings shall be
16 under, and according to, the judgment of the said court, and
17 not that of the justice.

1 13. All criminal proceedings before, or by authority of a Jus-
2 tice shall be in the name of the State of West Virginia; but no
3 costs or fees shall in any such case be charged or taxed against
4 the State or any county thereof. Where, however, a county or

5 township sues for a penalty imposed by itself, or by this act, it
6 shall be liable for costs, as any private person is liable.

1 14. Every Justice shall be entitled to the following fees in crim-
2 inal cases and proceedings, to be recovered of the defendant if
3 convicted, or to be paid by him if the services were rendered at
4 his instance:

5 For every recognizance or bond to keep the peace or be of
6 good behavior, twenty-five cents.

7 For every warrant of arrest or commitment, twenty cents.

8 For docketing case on return of warrant of arrest executed, ten
9 cents.

10 For every continuance at the instance of the defendant or per-
11 son arrested, ten cents.

12 For every subpoena for one or more witnesses, twenty cents.

13 For every warrant to summon a jury, twenty-five cents.

14 For swearing a jury, ten cents.

15 For swearing witnesses, five cents each.

16 For entering a judgment on his docket, and taxing the costs,
17 twenty-five cents.

18 For issuing execution, twenty cents.

19 For granting an appeal, including taking the bond or recog-
20 nizance, making and certifying a transcript of his docket, and
21 transmitting the same and the papers of the case to the clerk of
22 the circuit court, ten cents for every hundred words.

23 For a second or subsequent warrant or execution, one-half the
24 fee allowed for the first.

25 In all other cases, the fees herein allowed in civil cases, or by
26 law to other county officers, for similar services.

1 15. Constables shall be entitled to the fees heretofore prescrib-
2 ed by law.

HOUSE BILL No. 158.

**A BILL TO RELEASE THE TAXES FOR 1861, 1862,
AND 1863 ON PROPERTY IN CERTAIN COUN-
TIES.**

Be it enacted by the Legislature of West Virginia :

1 The taxes for the years 1861, 1862, and 1863 due
2 under the laws of Virginia on lands, personal property,
3 licenses and other subjects of taxation, within the coun-
4 ties of Berkeley, Boone, Clay, Calhoun, Fayette,
5 Greenbrier, Hampshire, Hardy, Jefferson, Logan, Mc-
6 Dowell, Mercer, Morgan, Monroe, Nicholas, Pendleton,
7 Pocahontas, Raleigh, Randolph, Roane, and Webster,
8 which taxes were transferred to this State by an act of
9 the General Assembly of Virginia, passed February 3,
10 1863, entitled "An act transferring to the proposed
11 State of West Virginia, when the same shall become
12 one of the United States, all this State's interest in
13 property, unpaid and uncollected taxes, fines, forfeit-
14 ures, penalties and judgments, in counties embraced
15 within the boundaries of the proposed State aforesaid,"
16 are hereby released, and the persons and property lia-
17 ble therefor forever exonerated and discharged there-
18 from, except only so much of the said taxes as has been

19 paid before the passage of this act, to the proper col-
20 lecting officer in any of the said counties; provided,
21 that the said counties respectively shall pay and dis-
22 charge all claims of officers and persons therein against
23 this State for any services rendered or thing done prior
24 to the twentieth day of June, 1863, under the laws of
25 Virginia and the ordinances of the late constitutional
26 convention of this State.

HOUSE BILL No. 159.

A BILL MAKING PROVISIONS FOR UNION MEN WHO HAVE BEEN ROBBED BY REBELS.

Be it enacted by the Legislature of West Virginia :

1 1. A commissioner shall be appointed for each county in
2 this State, whose duty it shall be to take a list of all money,
3 bonds, accounts, and all property personal and real, that has
4 been taken from loyal persons, destroyed or damaged by the
5 rebels, or their aiders or abettors, during the present rebellion,
6 in their several counties, and make full returns of the same to
7 the clerk of their respective counties. It shall be the duty of
8 all clerks to whom such returns are made, to record the same
9 in a book kept for that purpose by him.

1 2. And be it further enacted, that it shall be lawful for any
2 person having been damaged, either in money, bonds, accounts
3 or property, either real or personal, by rebels, or their aiders or
4 abettors, to recover by suit, the amount of all such damages
5 together with lawful interest thereon, from the time such dam-
6 ages or losses was sustained.

1 3. The person or persons engaged in taking or destroying
2 such money, bonds, accounts or property, either real or per-
3 sonal, shall be held responsible for the full amount of such
4 damages, and by suit instituted against each or any one or all
5 of them, judgment may be obtained against them and their

6 property for the full amount of such damages, together with
7 costs and interest thereon.

1 4. After judgment has been given against such person or
2 persons, if he or they fail to pay the full amount of such dam-
3 ages, it shall be lawful to sell his or their property, either real or
4 personal, to the highest bidder, to pay such judgment.

1 5. If, on account of an armed rebel force, proceedings can-
2 not be had in the county where such damages or losses was sus-
3 tained, or if there is no court held in such county, it shall be
4 lawful to bring such suit in any other county in the judicial dis-
5 trict in which the damage was sustained.

HOUSE BILL No. 160.

A BILL TO REGULATE THE FEES OF JUSTICES AND CONSTABLES.

Be it enacted by the Legislature of West Virginia :

- 1 1. Every justice, for services performed by him by virtue of his
- 2 office, may charge the following fees to the person at whose in-
- 3 stance or request the services are done:
- 4 For a summons to commence a civil action, ----- \$0,20
- 5 For every second or third summons in same action, ----- 15
- 6 For docketing an action commenced by appearance and
- 7 agreement, ----- 20
- 8 For every order of arrest, order of commitment or order of
- 9 attachment, ----- 25
- 10 For every subpoena for witnesses, ----- 10
- 11 For order of arrest against delinquent witnesses, or juror,
- 12 or in any case of contempt, and for trial and judgment in
- 13 such case, ----- 75
- 14 For swearing each witness, arbitrator or party, ----- 05
- 15 For taking and certifying any affidavit in writing, twenty-
- 16 five cents, or ten cents per hundred words, at the option
- 17 of the justice;
- 18 For every continuance, ----- 10

19	For appointing a guardian for the suit for infant plaintiff	
20	or defendant,-----	10
21	For appointing special constable at request of either party,	25
22	For settling and allowing interrogatories,-----	25
23	For entering agreement for arbitration,-----	10
24	For summons to arbitrators,-----	15
25	For every undertaking filed in the suit,-----	25
26	For venire for jury, including the drawing of same,-----	25
27	For trying a jury case,-----	75
28	For trying a case without jury, where defendant appears	
29	and defends the action,-----	50
30	For entering judgment,-----	25
31	For abstract of judgment for docketing in recorder's office,	15
32	For transferring a judgment on docket,-----	25
33	For entering satisfaction of judgment,-----	10
34	For issuing execution,-----	25
35	For issuing second or third execution,-----	20
36	For entering stay of execution,-----	20
37	For trying right of property levied on or attached,-----	50
38	For taxing costs,-----	20
39	For filing the papers in each suit,-----	10
40	For every process or order not otherwise provided for,-----	25
41	For transcript from docket, and for other writings and cop-	

42	ies not otherwise provided for, twenty-five cents, or ten	
43	cents per hundred words, at the option of the justice.	
44	For transmitting or delivering papers to Clerk of Circuit	
45	Court in case of an appeal,-----	25
46	For taking and certifying acknowledgment of deed or oth-	
47	er instrument of writing,-----	25
48	If executed by a married woman, twenty-five cents in ad-	
49	dition for certifying her examination and acknowledg-	
50	ment;	
51	For taking depositions of witnesses, if done in an hour,--	75
52	If not done in an hour, for any additional time, at the rate	
53	per hour of-----	75
54	For certifying proof of account or claim against the estate	
55	of a testator or intestate,-----	15
56	2. Every constable, for services performed by him by vir-	
57	tue of his office, may charge the following fees to the person	
58	at whose instance or request the services are done:	
59	For service and return of summons to commence a suit, or	
60	of second or third summons,-----	30
61	If defendant be not found or not served,-----	20
62	For serving and returning order of arrest,-----	60
63	If defendant be not found or not served,-----	20
64	For serving and returning order of attachment, twenty	
65	cents for each garnishee notified, and one dollar for tak-	

66	ing property, including inventory and appraisement, be-	
67	sides the reasonable expenses of removing, securing and	
68	keeping the property attached ;	
69	For subpoena—for each person served therewith,-----	20
70	For summoning a jury, and return of venire,-----	50
71	For attending trial before justice,-----	35
71	For service of execution on personal property and return,	30
72	For posting notices of sale,-----	25
73	For money made by sale of property under execution or	
74	attachment, and paid to the justice, five per cent on the	
75	amount ; if made without sale, two and a half per cent.	
76	For serving and returning other writs and notices not spec-	
77	ified in this section, each-----	25
78	For copy of any writ, notice, order or paper, ten cents per	
79	hundred words.	
80	For services not otherwise provided for, the same fees as	
81	sheriffs.	
82	3. For services in criminal cases not otherwise provided for,	
83	the justice may charge to the county the following fees to	
84	be audited and paid by the board of supervisors as oth-	
85	er claims against the county:	
86	For the warrant to arrest the person or persons accused,	
87	and take him before a justice for examination, including	
88	the summoning of witnesses,-----	25

89 For the examination of witnesses to ascertain whether such
 90 warrant ought to be issued, and against whom,----- 50

91 For the examination when the accused is apprehended and
 92 brought before him,----- 50

93 For recognizance of bail, warrant of commitment or dis-
 94 charge of the accused,----- 25

95 For recognizance of witnesses, each----- 10

96 For a search warrant,----- 50

97 4. The justice and constable may issue their fee bills against the
 98 person at whose instance or request the services were rendered
 99 for any fees lawfully chargeable for such services that have not
 100 been collected on execution or otherwise paid, except the fees
 101 chargeable to the county as aforesaid. Such fee bills shall have
 102 force of an execution, and may be collected by the sheriff or
 103 collector of taxes of the county, or the constable of the town-
 104 ship in which the persons against whom they are issued respec-
 105 tively reside. The person collecting the same may retain, for
 106 his compensation, ten per cent on the amount duly accounted
 107 for, and paid over to the officer entitled to receive the same.
 108 The 24th, 25th, and 26th sections of chapter 184 of the Code
 109 of Virginia, second edition, so far as the same are consistent
 110 with this act and other laws of this State shall be held appli-
 111 cable to such fee bills.

112 5. If any justice or constable issue a fee bill for any service not

113 performed, or against any person not chargeable therewith, or
114 for a greater amount than the law allows, he shall pay to the
115 person against whom the same is issued four times the amount
116 so unlawfully charged; which may be recovered by such per-
117 son before any court or any justice not interested, having ju-
118 risdiction.

119 6. For any service to be rendered by virtue of his office, for
120 which a fee is allowed by law, except fees chargeable to the State
121 or a county, the justice or constable may require the proper fee
122 to be paid before the service is rendered.

123 7. The justice shall keep a fee book, or a memorandum or account
124 upon his docket, so as to show underneath the title of each suit
125 the costs made by each party, separately, for services rendered
126 at the instance or request of such party; and also to whom the
127 same are due, whether to himself, the constable, witnesses or
128 other persons; and shall note from time to time which of the
129 items are paid so far as the fact may come to his knowledge.

130 8. The costs to be included in the judgment or execution are
131 those only made by the party in whose favor the judgment is ren-
132 dered, and which have been paid by him, or which he is bound
133 to pay if the same are not collected from the adverse party.
134 But the costs made by the party against whom the judgment
135 is rendered and which he is bound to pay, may be separately
136 endorsed or noted on the execution, which shall then so far as

137 such costs are concerned be equivalent, to a fee bill. When
138 costs are included in an execution or indorsed or noted there-
139 on, it shall show the sum due each person, whether justice,
140 constable, witness or other person.

HOUSE BILL No. 161.

A BILL TO AMEND AND REENACT THE SIXTH SECTION
OF THE ACT PASSED JANUARY 30, 1863, ENTITLED "AN
ACT STAYING THE COLLECTION OF CERTAIN DEBTS."

Be it enacted by the Legislature of West Virginia:

- 1 The sixth section of the act of the General Assembly of Vir-
- 2 ginia, entitled "An act staying the collection of certain debts,"
- 3 is hereby amended and reenacted so as to read as follows:
- 4 "6. This act shall be in force from the first day of February,
- 5 1863, and shall expire on the first day of March, 1864."